

Closed Caption Log, Council Meeting, 08/27/09

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Good morning, everyone, if I could have your attention, we'll get started. I'm austin mayor lee leffingwell. And we will begin today's meeting with the invocation from adam carrington, grant ame worship center. Welcome, reverend. Please rise.

Let us pray. Oh, mighty ever lasting god, the god of all wisdom and of all human kind and of all creation. We are here today, first of all, to thank you for your abundant grace and mercy that you have demonstrated in each of our lives. We specifically ask with your blessings and that your presence is manifest in this austin city council meeting. We ask that you bless our mayor, our mayor pro tem and every member of the austin city council. In your wisdom, helping them to make sound decisions that will stimulate the austin economy with financial successes. Keep an open line for all austin families so that we together can one day testify that we have weathered this economic storm. Dear god, continue to bless our military branches all over the world and every member of their families. Protect them from all hurt, harm and danger as they keep america safe. God, bless america, bless texas and especially bless the city of austin. Making us a great city where every man, every woman, every boy, every girl, can enjoy freedom, safety, financial success, and liberty to pursue happiness. In jesus name I pray, amen.

Mayor Leffingwell: Please be seated.

Mayor Leffingwell: A quorum is present so I call this regularly scheduled meeting of the austin city council to order. AT 10:05 ON AUGUST 27th, 2009. We're meeting -- in the council chambers, austin city hall, 301 west second street in austin, texas. We will start with the changes and corrections for today's agenda. First, item no. 2., Delete the word cents. The tax rate of it should be .4209 dollars instead of cents. That's a pretty important change. 14 add the words city match of \$19,997 as required. 29 is postponed indefinitely by staff. 57 add as a co-sponsor mayor pro tem mike martinez. 63, add suggested times, dates and times, SEPTEMBER 14th, 2009 AT 00 p.m. Our time certain items, 30 morning briefing will be a presentation on the hispanic and latino quality of life initiative. 00 noon our general citizens communications. , austin technology incubator presentation on the fiscal year 2009 accomplishments and highlights. , we will take up our zoning matters. , live music and proclamations with the daze group. we will take up our public hearings. The consent agenda this morning will be items 1 through 64, plus 90, with the exception of the following items that have been pulled from the consent agenda. Item 1 by councilmember morrison, items number 2 and 63. 2 Is pulled because it requires

special action by council in that it requires a roll call vote. 63 is related to executive session. Items number 7 and number 8 have been pulled by councilmember spelman. 12 has been pulled for -- for speakers. 23 has been pulled for speakers. 30 pulled by councilmember morrison. 32 pulled by councilmember morrison. Items number 55 and 56, have been pulled for speakers. 90 is -- is pulled and we'll hear that after executive session. As is item no. 63. So that is the consent agenda. Are there any additional items to be pulled from the consent agenda?

Cole: Mayor?

Mayor Leffingwell: Councilmember cole?

Cole: Mayor. Councilmember morrison and i have reached complete agreement on the comprehensive plan item and -- which is number 30. And it is in your seats, a yellow copy and it may go on consent.

Mayor Leffingwell: So 30 is back on the consent agenda. Thank you very much. And did I mention item no. 23 is also pulled for -- from consent for -- for speakers. So I believe that's all we have.

Mayor? City clerk?

Yes.

I would like to just make a correction for the record. Item 2 -- 63 is not pulled because it's related to executive session. It's pulled because it's related to item no. 2.

Mayor Leffingwell: Thank you for that correction. Still pulled from the consent agenda. So that is the consent agenda, I will entertain a motion for approval.

So move.

Councilmember cole moves approval of the consent agenda, seconded by the mayor pro tem? Is there any discussion? We may have speakers signed up. Let's -- let's -- let me check that. Okay. Okay. One citizen signed up to speak on item no. 24. Susana almanza. Susana almanza. Susana almanza is evidently not here. I propose a friendly amendment to councilmember cole to add number 24 back to the consent agenda.

So move.

Mayor Leffingwell: Okay, mayor pro tem? Any comments by the council? All in favor say aye.

Aye.

Any opposed. That passes on a vote of 7-0. Let me go back on the consent agenda and read into the record the boards and commission nominations and WAIVERS FOR AUGUST 27th, 2009. For the

asian american resource center advisory board, imed ahmed by councilmember riley. For the board of adjustment, alternate member by myself, mayor leffingwell [indiscernible] community development commission j lemon. [Indiscernible] the electric board, this will also waive the residency requirement, gilbert [indiscernible], councilmember spelman. For the impact fee advisory hank kidwell by myself, mayor leffingwell. Mechanical plumbing and solar board, john burris, councilmember riley. Public safety commission, [indiscernible], councilmember riley. Resource management economics, shaun kelly, councilmember spelman. Solid waste advisory committee brent purdue, councilmember riley. Shaun garrison, mayor leffingwell. Urban transportation commission, boone blocker, councilmember morrison. Zoning and platting, patricia seeger, councilmember spelman. And scott stuckey building and fire codes board of appeals and raul garza for mexican american cultural center advisory board have their -- have a waiver for the attendance requirement. And -- and for the mechanical plumbing and solar board, paul hovey as a residency waiver. Just wanted to read those in for the record. So I believe, council, we'll -- yeah? Also, I need to mention that 00, there will be a request for a postponement of item no. 85. But we can't make that official until 6:00 tonight. That's just an advisory. Mayor pro tem martinez requested that we take up item no. 55 out of order. If there's no objection we will take up that item first because some speakers have a time requirement to get back to work. I will leave it to you councilmember martinez to take up this item.

Martinez: Thank you, mayor, I appreciate the consideration. Item 55 is a resolution directing the cityanager to begin drafting an ordinance to ban texting while driving. While there still remains some controversy over this, issues of enforcement, what exactly we're talking about. Today really is just the beginning of drafting that language. So I want my colleagues and everyone to feel comfortable and confident knowing that all of the concerns that you guys have mentioned or questions that you have asked, you know, we're going to do everything that we can to address them before the final draft of the ordinance comes back. I know that some of you have some questions today that -- that you'll be putting out there so that staff can understand where you're coming from. This is something that actually the public safety task force took up almost two years ago. And at the time that we brought this item up, it wasn't -- it wasn't extremely clear that -- that texting while driving was as dangerous as some of us thought. Since that time there's been multiple studies confirming what we all believe. That not only is it dangerous, it's probably the most dangerous thing that can you do while driving. Studies have shown that you are 20 times more likely to get into an accident if you are texting while driving. While it may seem common sense to not text and drive, it really -- doesn't seem to resonate with drivers. We see it becoming more and more prevalent. I followed someone yesterday for almost a while that drove with their forearms on their steering wheel texting the entire time. I followed them to see how far it would go, from here across bridge down riverside, down south congress all the way to ben white and he texted the whole way. Fortunately there was no accident, but again it speaks to the issue of greater public safety to me. This year at the midpoint in june, we were on pace to have almost 08traffic fatalities here -- 80 traffic fatalities here in austin this year. If you think about it in a different context, if 80 people died in austin every year due to one single cause, I dare say this body would be doing everything we possibly could to prevent that from happening. But because it's traffic, because it's austin, we know how bad traffic is, we seem to at times accept the fact that there's going to be a lot of accidents, going to be a lot of fatalities. I don't believe that we should. I think we should be doing everything that we can to improve congestion

and public safety. That's really what this item is about for me. If we can get folks to understand the hazards, and the risks that come with -- with texting while driving, in some cases there are folks who have experienced very -- very scary incidents, near histories and actual accidents. Near misses and actual accidents. Jones is here somewhere, there he is, his son was severely injured when they were rear-ended by someone who was believed to have been texting while driving. Ran into the back of their car, very high rate of speed, no brakes at all, because she was looking down. We're going to move this forward. Chief Acevedo is here, I have asked him to be here to speak because there are going to be questions about enforcement. We realize that there are some -- some obstacles with enforcement. But -- but we think that we can overcome most of those obstacles and implement an ordinance that really improves road safety for the citizens. In addition to texting to a ban on texting while driving, though, this resolution asks the city manager to create a -- a safe passing zone around cyclists, pedestrian, joggers, folks in wheelchairs, anybody that's on the roadway other than -- that's not in a vehicle. We believe this also is very critical, Austin is a major bicycle friendly city. We have -- we have many folks who use our roadways because our sidewalk infrastructure isn't completely finished. So they have to get into the roadway to -- to move around. So we again want folks who are driving vehicles to understand that we need to treat folks equally on our roadways and give them the safe distance to use the roadways as well. With that I think Councilmember Riley wants to speak to the safe buffer zone and we will open it up to question and public testimony.

Thanks. Councilmember Riley.

Riley: Thanks, this is a very significant issue, especially to the bicycling community, but really to all users of the road. If you all were following this past legislative session, you know there was a lot of discussion about state-wide three foot passing rule, which actually wound up getting broad bipartisan support from legislators around the state overwhelmingly passed the legislature and was unexpectedly vetoed by our governor. This is not a radical idea. Some 18 other states have already adopted similar rules including our neighbors in -- in Oklahoma, Louisiana, and Arkansas and Arizona. And it -- it's a very simple concept. That the vulnerable users of the road need some extra protection, need some cushion of space to make the road safe for them. Now, we have been getting some calls and e-mails about this. I know there are some concerns. The main two objections that I have been hearing are, number one, that it's -- that it's just not enforceable. Number two, that those crazy bicyclists don't follow the rules anyway, why should we do anything to protect them. On the first one about enforceability. There is a problem with enforcement. It is going to be hard for police to enforce a three foot rule on a routine basis. In my mind this rule is not -- the primary audience for this rule is not necessarily the law enforcement community. The primary audience that I hope the word gets out to -- is drivers frankly. We all face, whenever driving, we frequently face situations where we're called upon to exercise judgment about just how much space to allow this fellow users of the road, I hope as we answer that question, that the answer won't really be how little space can I get away with without getting caught. The answer to that question ought to be what is a reasonable safe amount to allow this fellow user of the road? We all might answer that question differently. Some would allow a little bit, some more. This rule makes answering that question. Suggesting standard response just allow a minimum of three feet because that is in general what's going to be safe. Secondly the other big concern about cyclists not following concerns, some people agree with this, saying we have to do something about those cyclists, there are

a lot of cyclists out there not following the rules of the road absolutely true. There are a lot of cyclists in this town who actually do follow the rules. As long as our roads are perceived to be dangerous, en the folks that you are going to see out there riding on the streets are going to tend to be disro portion gnatly some of the more dare devil types, willing to take those risks. I promise if you can make the roads safer, you are more likely to get a broader spectrum of folks out there. More gray haired guys biking to work who actually do follow the rules. So I think rules that add to the safety of the road is actually going to -- to get more safer cyclists out there. You are going to see cyclists behavior better because folks who follow rules are going to feel comfortable being out there on the road knowing there are rules in place to provide them adequate protection to make the roads safe for all users. I'm going to strongly support this initiative. I appreciate the mayor pro tem initiating the effort to bring this forward. I will look forward to discussion on it over the coming months.

Mayor Leffingwell: Thank you, councilmember. We do have four speakers signed up. The first is debbie russell. Not signed up. Go ahead. jones was signed up, I do want to ask him to come up and speak after our first speaker.

Debbie russell, the central texas chapter of

[indiscernible] of texas. Excuse me, just ran in. There are several issues with creating a ban on texting and driving. One of our issues is not, i should state, that there is in any way an infringement on civil liberties by doing so. One of the main issues is enforcement. At this point we have seen the police department spokesperson in the statesman admit there are enforcement issues, if you have read the comments on blogs police officer are piping in asking how they are expected to enforce this law. They have many things on their plate at this point. We know neighborhoods are -- are wanting them to patrol neighborhoods, we have a lot of issues with violent crime that we are not addressing. This is one more additional task to put on their list that I don't believe we have the resources to do. Many other entities have enforced bans and are having troubles and difficulties. While I have great faith in the city manager to come up with creative solutions, i don't think he has super powers, I don't think he's going to find the answer that no one else has found thus far. There are other solutions to -- to -- to changing this behavior than creating laws to change behavior because we see time and again that laws are not the best way to -- to try to change people's behavior. Peer pressure, public education campaigns, are in fact wildly successful in comparative terms. And there are also, I sent you very recently, a -- a magazine article out of time that -- that is talking about the latest in technology, where there are applications and implements from the automobile manufacturers standpoint that can turn off the ability to text or talk and drive. These are things that i think we need to carefully look at before implementing a law that is unenforceable. If we're not dedicating any money for public education, alongside this, it will fail. Studies are showing that bans enacted in other places while making a difference in the short term, the behavior returns, to the same behavior patterns as before the law. Over the course of time. And so it would be best to try these methods first. But if we're going forth as ban, I think it's very important that we dedicate the proper amount of funding for public education. Not just the press from the police department that results in one day of news. That doesn't last. People don't understand, don't know until they are pulled over. Then fights in the courts word against word again unenforceable. Please let's look at the alternatives before enacting law. Appreciate your time.

Thank you, ms. russell. The mayor pro tem has jones, is jones -- in the chambers? Council, if there's no jones speak out of order, he has a special time constraint. Mr. or doctor.

Doctor jones. Worked hard to earn that.

Mayor Leffingwell: Thank you, sir.

So this issue strikes very close to home for me. I don't know how many of you all here in the room know what happened to me and my family last october. In a nutshell we were stopped on a little two lane highway just outside of town got rear-ended at 70 miles an hour by a girl who never saw us. She never braked. There was no curve in the road. There was no fog. It was a crystal clear day like today. And the girl never braked. 18-Year-old girl on her way to college. I will give you two guesses what she was doing. We are still fielding medical bills and having to have my three-year-old beautiful -- my beautiful three-year-old son had to be life flighted to dell children's and had emergency surgery for multiple skull fractures and -- and thank god he's done -- he's done really well. He's actually 100%. You would never know that he had these major injuries. But scared us to death. Worst week of my life. And it's directly attributable to somebody not watching the road while they are driving. My son could have easily been one of those fatalities that y'all mentioned. And, you know, if an ordinance like this gets passed, it's just another deterrent for somebody to be thinking well, gee, maybe i shouldn't answer that text while I'm on the highway. If you think about how much distance they cover in just a few seconds and how much damage they could do to someone, it -- it would make the ordinance stronger and even more enforceable if it were a reportable offense, so say somebody is wasting water right now, you can get on the water utility website and report their address. Time of day, what was going on, I saw sprinklers on at 00 in the afternoon in a house in my neighborhood i reported them. Something similar to that would really help as far as enforcement goes on this. But I would strongly urge the council and thanks so much for letting me come talk about it to pass this ordinance. I think it would really be beneficial and just another deterrent to stop people from texting while they drive.

Mayor Leffingwell: Thank you, doctor, would you check with the city clerk and make sure she gets your name and information so she can get you in the minutes. Thank you. The next speaker is mark stein who signed up for.

Thank you. Mayor and councilmembers. My name is mark stein. I'm with bike texas, we're a state-wide advocacy group. We are very much in the biking and walking safety business, primarily through schools and training teachers but in many different ways. We work on safety on the roadways. We strongly support the safe passing initiative and also strong -- strongly support the ban on texting while driving. We believe that even though there are enforcement issues, it can be enforced some of the time and the greatest tool of these types of initiatives is the educational tool. The enforcement gets their attention and the education helps them know what to do. We think that this will protect the -- the target group of vulnerable road users, especially. But it also affects behavior across the spectrum of all operators on the road, no matter what their vehicle and the current effort in road safety is through -- is to establish a better safety culture, much as industry established safety culture, that requires more initiatives like this

that both enforce and educate. The effort that we made state-wide for safe pass in this the last legislative session, I want to reiterate what councilmember riley said, that it was very well vetted across the entire political spectrum. It was supported by triple a, aarp, the -- the chief acevedo supported it and the texas towing and storage association, among other groups. Personally I will say i obviously bicycle a lot, walsh and jog a lot. 15 Years experience doing roadside work. The worst experience of those three was my vehicle was hit while working along the roadside. There's a broad spectrum of vulnerable road users who can be protected out there about 20% of the fatalities in texas are among that category. So we are looking at the potential to reduce death and injury among a large group of people. Thank you very much for your support.

Thank you, mark. Eileen shabert signed up in favor.

Good morning. I'm involved in a lot of different bicycle advocacy groups, including education, and I've actually had the privilege of teaching bike safety to councilmember morrison and chief acevedo. But today I'm here as a private citizen and I want to speak in support of this resolution. And I want to thank you for your leadership in what i hope is an ongoing effort to improve public safety for all road users. Not just cyclists. As citizens we have a responsibility to take seriously how our actions affect others, especially while driving, since the consequences can be devastating on so many levels. Austin is facing tough budget decisions right now, where do we cut spending? I would say crash reduction is one of the best ways to do that. I would like to see the city consider banning cell phone use altogether while driving. And bicycling as well. Let's free up the dollars spent on the aftermath of crashes on services like crime reduction and improving infrastructure that actually serve the vulnerable road users, such as our sidewalk network. We all need to responsibly share the scarce resources of the city and I really look forward to the ongoing discussions that this resolution is going to have for us in the next coming months. Thank you.

Mayor Leffingwell: Thank you. The last speaker is Carlisle Rice sig opposition.

Good morning. Carlisle Rice, I'm on the steering committee on Texans for accountable government. Basically I'm opposed to this. It's unnecessary to have to ban the use of using cell phones, texting while driving. The reason that I have for that is because we already have laws in place that I think would effectively deter. The reckless driving law. If somebody is texting like driving like Mike Martinez pointed out earlier, if somebody is not even looking at the road they are guilty of driving recklessly. I don't see why we need another law in place to try to get people to change their behavior. Not to mention I think it's actually detrimental to try to use coercive measures to get people to alter their behavior. I think public notice is going to get people to notice the consequences of it. Like Martinez pointed out as well, a lot of people don't know how dangerous texting and driving is. First we need to get that out into the public, let people know. Yes, this is a dangerous practice. It's very easy to cause a wreck if you are participating in something like that. And I think the -- that banning it right out, doesn't even give people that opportunity to really start thinking about well this is dangerous. Instead people are going to be worried about well can I text and drive and get away with it. Maybe instead of having the phone in front of their face, they might have it on their lap so they won't be seen texting and driving. That's pretty much

all that I have to say. Thank you.

Thank you. Christopher hornsby, r shepherd, l garcia, william shepherd, kenneth [indiscernible], christopher le blank, michael [indiscernible], leslie [indiscernible] samuel parker all signed up in favor not wishing to speak. That's all of the speakers that I have on my list. So comments from the council or a motion? Councilmember morrison?

Morrison: Thank you, mayor. I'm certainly supportive of this resolution. I just wanted to get one clarification out there. The actual language of it talks about having nothing to do with text messages, instant messages or e-mails and viewing the internet. And I wanted to point out that on our devices we can do a lot more than that. I could read war and peace if I was so inclined. Look at my calendar, play games, all of that. I just wondered if mayor pro tem could clarify whether your intention is to really look at the whole broad spec spectrum of anything but talking?

Yes, the contemplation was to enact something that prevented people from using their device for anything other than making a phone call or we did carve out specifically the use of g.p.s. Because many folks need to get around town, so those are the two carve outs, using your phone dialing a number feature then those would be the only acceptable uses.

Councilmember shade?

Shade: Thanks, I would like to just ask and I know that I've had a conversation with mayor pro tem and councilmember riley and mayor leffingwell about this, to the point that debbie russell made earlier. There is a very important need before this comes back for us to actually vote on for a lot to happen. And secondly, she had sent an e-mail earlier talking about the importance of public education and I want to acknowledge that. I think that we heard during the budget hearings this past couple of weeks, from both of our fire chief and from our chief of police and I've since had conversations , too, that there's clearly an effort afoot to increase awareness and I think just having this conversation increases awareness about the severity of challenges that are associated with people doing too many things while driving, whether that's -- whether that's, you know, eating, putting on makeup, all kinds of things. I think it was the -- the chief of police that said that he's seeing more text related accident than even dui's now. I think public education, raising awareness is critical, I hope just by virtue of this comment it could be taken as direction, you look at ways to pool resources that we have in public education, across the public safety entities to see if we can increase that and do both. They are not mutually exclusive.

Cole: Mayor, I have some questions.

Mayor Leffingwell: Councilmember cole?

Cole: I would like to ask legal to come down, i have a few questions. I also have some questions for -- for chief acevedo. I fully recognize that texting while driving is extremely dangerous. And I've seen the recent videos with very young drivers and that we really do have a challenge now with the drivers that we are training having a son that's 15 and in driving -- driver's ed, that we have a challenge now to

teach them in a way that we just did not have. But with that being said, i support the ordinance and the symbolic nature of it in terms of raising awareness. But I think that it brings fort some very, very challenging issues that we can't possibly let go out of a recognition of the limited allocation of resources that we have for our police officers. So with that, let me ask legal how in the ordinance would you deal with the rather than thorny issue that we often face with -- with the minority community concerned about pretextual stops, being stopped because you -- there's a suspicion of a use of a cell phone but there really is not?

Well, there is a current requirement under the code of criminal procedure -- excuse me, david douglas with the law department. There are current requirements under state law for reporting all traffic stops. The reason for the stop, alleged violation of traffic law. And the -- the race of the individual. If the officer knew before the stop. All of those requirements are in law now. So they will continue and any stop for this ordinance, if it's passed, would have that same requirement. For -- for -- which would be addressed.

So you think that we can adequately address that in the ordinance?

Yes.

Okay.

It's currently in state law. And the police department would -- would have to be reporting these stops just like all of their other traffic stops.

Okay.

Cole: Let me ask a question to chief acevedo, you might have to follow up with a response also of how you would deal with this in an ordinance. I think it's easier to understand my concern if i give you an example. Because I think we can all feel good about addressing a very dangerous issue. But when we get down to the reality of how it is enforced it is a totally different matter. So let's assume that we have a rather young woman at 00 in the morning and the officer in good faith believes that she was texting or reading an e-mail while driving. She's pulled over. And the -- and the officer says, ma'am, you know, i noticed that your hands were up and you were obviously reading or texting while driving. She says, well, no, I was just -- I don't think there should be a problem with that, I was reading a text message from mayor pro tem martinez telling me to cut on my lights. [Laughter] and -- and in fact he's right behind me --

she's actually relaying a true story.

In fact he's right behind me and he's driving, so if you want to look at my phone, it proves that he was texting while driving, not me. [Laughter]

oh.

So I -- I joke, I give that as an example. I know that you would run back there and ticket mayor pro tem martinez.

That's called a two-fer, we would write them both a citation. That's an easy one. [Laughter]

Cole: I joke about those examples because I got comfortable with supporting this ordinance only because I recognized how similar it is to driving under the influence of alcohol. How often officers can't actually see a person drinking while driving, but they notice other conduct that they are doing like swerving or running a light or they don't have their lights on. And so that is actually the trigger for the stop. And I really think it would be important in this ordinance, in dealing with the issue of enforceability, that we closely follow that because I don't -- I don't really like the idea of our officers just out there guessing whether somebody is texting while driving because it's so difficult to enforce. I just wanted your comments on that.

Well, first of all, the best resolution would be to have hands free around altogether where you can't use your phone or text and do other things on the phone. I think eventually based on legislation at the federal level, in the senate, states are going to -- have to make a tough choice whether to pass a hands free law altogether or lose federal transportation dollars because of the data that shows that it is very dangerous. Regardless of how difficult it may or may not be to enforce the law, we know that studies have shown that 70% of individuals will abide by those laws, especially with the good public information campaign and we have a lot of ways we can educate the public, including inserts in the austin energy bills and some of the other utility bills that we can send folks which would be a great medium to educate both english and spanish. 70% Of the folks are going to obey the law just because that's the nature of people. So you would reduce that violation rate and the potential for the bad jones spoke about by a great percentage. The second piece of that is that by having the law on the books, it starts a discussion and debate and that in itself is an educational process for the community. And as people go out today debating this issue, whether or not we pass it, I think people will have a greater awareness. Our officers would be able to enforce this by just simply watching somebody. People are to inattentive. You have all seen it where people are swerving, you think that it's a drunk driver. You go to pass, you see somebody on the cell phone doing their thing. Intently looking at it, intensely looking at it. From an enforcement perspective you probably won't be able to enforce it against people that are good at doing it. Because they don't draw attention to themselves. But you will probably be able to more easily enforce it on folks that are so intent on what they're doing that they're impervious to everything around them, they will be more focused on the pda than driving. Those are the folks that i strongly believe we will be able to enforce the law. Probably focusing more on the most egregious driving behaviors.

What that means that you will ticket me and not martinez.

Just kidding.

No, the mayor pro tem will get two tickets because it was his idea.

Thank you, chief.

It's different.

Difference between i phone and a blackberry, too, sheryl.

Thank you, chief, I don't know if anybody else.

Mayor Leffingwell: Any other comments? Councilmember spelman?

It's my understanding that patrol officers in the city of austin actually text and drive at the same time because they have a computer in the car which is relaying instructions to them. Is that different in form? Is that different to what we're talking about here.

Because of the nature of public safety and -- communication we need specifically to be able to respond, we would probably prefer a public safety exception to the rule. However, we encourage our folks to -- to even today where it's not required, to try to focus on using it when they are on a stop at a red light. The only time they are required to multi-task would be going to a hot spot type of call, the dispatchers are sending updated information, those would be the exceptions where we -- where we unfortunately it's -- time is a necessity.

The only other class of people that I'm aware of are that are in this position are common carriers, taxicab drivers, mdt's, dispatched in real time. Would we need to carve out exceptions for those guys, too.

That would be something that I would consider as well, yes, sir councilmember spelman.

Yes.

Spelman: Can you think of any other exceptions we need to consider.

I'm sorry?

Spelman: Can you think of any other exceptions that we need to consider.

You know what, when we talk to legal here, we will look at the other states that already have legislation on this issue. And see what other exceptions they have and then we'll pass that information on to council.

Spelman: Appreciate it, thank you.

Mayor Leffingwell: Any other comments.

We've had 31,000 crashes so far here today in the city. 30% Have been caused by inattentive driving, which includes many of them people on their pda'sment and that's 30% of 31,000 that hopefully we will be able to cut down next year, which steves us all potential injuries and health care costs and maybe even death.

Mayor Leffingwell: I agree there's no end of way that drivers can find to distract themselves from driving. But this ordinance, I think, proposes a way to eliminate a large chunk of those distractions, I think it's a good ordinance. I will entertain a motion on this item.

Martinez: Move approval.

Mayor Leffingwell: Mayor pro tem moves approval of item no. 55. Is there a second? I'll second. Any further discussion? All in favor say aye.

Aye.

Any opposed? That posts on a vote of 7-0. So with that, we're a little past our scheduled time for the presentation on hispanic quality of life. And we'll go ahead and we have a staff member that will present that. We'll take up that item.

Rudy garza, you should have already received our report from our consultant on the hispanic quality of life initiative that council initiated. [One moment please for change in captioners] the city manager did form a core team to move forward and work closely with the consultant. And most of those members of the team are here. What we have done is we have assigned executive staff to the education forum or education issue, the health issue, economic development, and the arts and culture. We will be working closely with the city manager as we move forward. The next steps. We have also hired again paul saldana with adelante solutions to lead these efforts. He will present to you again a summary of these findings. The detailed report again is in your office. Also posted online for anyone who is interested in getting more of the details. I would like to take the opportunity to thank a lot of our partners throughout the community, specifically aisd was extremely supportive, they opened their facilities to us. And they have been very appreciative of our efforts and they are going to be taking our information and moving forward and -- as they see as appropriate for their organization. was also a tremendous partner for us. Opened up their facilities. And in the -- in the health forum, we did -- we did have the travis county health district at the forum, we will be working closely with them, so they can take our information, knowing that they are in fact now the lead on health care for -- for many parts of our community. So we appreciate everyone's support and look forward to -- to the next steps and after paul finishes his presentation, I'll come back and kind of walk you through the next steps with this.

Good morning, mayor and council, my name is paul saldana with adelante solutions, I would like to take a brief moment to introduce members of my staff that were instrumental in helping to put this study and initiative together. Alicia, raul, sebastian fuente, thank you. Austin -- austin's exciting culture of different ethnicities, diverse ideologies and vibrant community is a major contribute tore to austin's unique and attractive way of austin. The city of austin is committed to making high quality of life available to and

accessible for all of its citizens. The hispanic quality of life initiative is an important part of that effort. The multi-phase hispanic quality of life initiative and process sought to examine the quality of life for hispanics in austin, includes demographic information, trend and data analysis, community engage through a series of bilingual public forums and print and online survey opportunities, throughout the months of february and in may 2009 the hispanic quality of life initiative received direct input from a series of forums and community surveys for more than 1600 residents. Address solutions, collected both qualitative and quantitative data from a diverse representation from the hispanic community residing here in austin. We had approximately 650 people complete the survey. 83% In english, 17% in spanish. We were to look at the demographic profile of the form and survey participants, about 55% of the respondents range in age from 30 to 49.

[Reading graphic] I know one of the directors from the council -- directives from the council to -- make sure we had inclusive representation at the forums, we had about 69 different zip codes at the forums and on the survey. This initiative seeks to follow, answer the following question. Is the quality of life experienced by hispanics significantly different than the quality of life experienced by the rest of austin and another demographic groups and markedly different from the quality of life experienced by hispanics in other cities. When we asked how do hispanics rank the quality of life here in austin. 34% Responded quality of life was good to very good.

[Reading graphic] in order to achieve the objective of understanding and gaining insight on what hispanics believe are the most significant issues to improve their quality of life, respondents identified public education, employment opportunities, and accessibility to affordable health care as the most pressing issues. The recommendations that follow are part of an analysis of the issues and challenges that were identified by the community. With documented the themes and priorities to make specific recommendations regarding the challenges and opportunities. Forums were structured to maximize on the opportunity to hear directly from citizens with a brief presentation to start each forum. Followed by smaller discussions and four subtopics of the main theme. Each group was asked to identify challenges and opportunity and then to prioritize those issues. At the end of each forum, each subgroup reported back to the larger group and we concluded with citizens communications and next steps. So the following are the recommendations to the city regarding what needs further review. In the area of education, we started the initiative with the first forum on february 24th. Currently there are approximately 83,000 students that attend austin aisd. Hispanics represent about 60% of that total student population. According to the intercultural developmental research association, the dropout and attribution rate for hispanic students in austin, travis county, is about 52%. That is the largest out of all of the race and ethnic groups. The first issue we wanted to point out is that the survey and forum participants indicated there are challenges to transition students from high school to higher education opportunities. Our recommendation is that the city can work to support aisd to develop long term cooperative partnerships with colleges, non-profit agencies and the business community to develop strategies to bridge the gap and increase a successful transitioning of hispanic students from high school to college. The second issue we heard a lot of comments regarding the deficiency of how information is transmitted and received in english and spanish. Both from the city and aisd. Our recommendation is that the district and the city should regularias says the consolidation of -- regularly assess the consolidation of resources and best practices to work in conjunction with the neighborhoods

and the community to fill gaps in disseminating information with a particular emphasis on bilingual grassroots communication. Now nearly 30% of the AISD student population are students with limited English proficiency. The next issue that we point out is that there's a lack of programs to help first generation immigrants communicate effectively both at school and at work. Our recommendation would be that the city and the district consider policies that promote and encourage a dual language workplace, a coordinated effort to provide appropriate programs that service both educational and workforce development needs is certainly recommended. Then there's a lack of coordination in disseminating bilingual information on after school programs, summer youth employment programs, other educational programs. Our recommendation is that the city should support the school district and bring an environment, neighborhood and communication organizations together to create a centralized and managed database of educational associated programs. According to a June 2009 Tidbit News article, Austin's wireless network isn't evenly spread across the city. Most of the hot spots for Wi-Fi and free internet access actually lie west of I-35. Most of that is concentrated obviously in the U.T. area and the downtown area. Issues that was pointed out by the participants is that accessibility to technology is seen as a major obstacle in ensuring Hispanic students academic success. Our recommendation would be that the city should consider potential partnerships with businesses to find additional resources and a means to augment computer labs and Wi-Fi hub connections at existing city facilities, especially those in close proximity to neighborhood areas. Participants also cited the lack of regional planning and incongruent policies by AISD and the city for new development and placement of schools. The city's current desired development zone policies have had a negative impact on the growing number of underutilized and low capacity schools east of 35. Compounding the impact is the district's current transfer policy, which allows affluent families relocated into the desired development zone to send their children outside the designated neighborhood schools. Our recommendation would be that the city work in partnership with AISD to maximize underutilized campuses and the impacts on neighborhoods. This ongoing issue should be addressed regularly at the joint subcommittee of the Austin City Council and the AISD board of trustees. Moving into the area economic development, Hispanic-owned businesses are the fastest growing small business. Nationally that ratio is 61:00. On the local -- six to one, local level it's 3 to 1. 35,000 Hispanic owned businesses according to the state comptroller. In the forum, participants felt that the city did not -- that the participants felt they weren't informed about the various cities economic development and small business programs and services. So our recommendation is to maximize the services offered by these departments with constant and regular communication as needed. We further recommend that the city potentially schedule an annual submit to clients -- [indiscernible] we also encourage the city to continue to work in reaching out to the community through all available means of communication and that would mean also participating with existing Hispanic network groups, solicit opportunities so that the city can go and participate at business meetings, communities meetings and present, if you will, an overview of the various programs that the city offers. During the discussion on economic development, the issue of a lack of affordable housing was raised and despite the attempts by the city to address the need for more affordable housing with various policies and even state legislation, the economic condition, the rising cost of living, have really not allowed these policies to truly make an impact on the supply of affordable workforce housing. So our recommendation would be that you continue working on policies and encourage developers to provide additional affordable housing opportunities. In addition, it was pointed out by the participants that construction of housing units really

need to evolve to meet the needs of the hispanic culture. And the hispanic culture we embrace having more than one generation living in single family homes. And right now, the development is not conducive to that. So we would also like to see an increase in information strategy that's consistently get information to the public on available programs and the requirements that will support affordable housing opportunities for hispanic residents. Despite the fact that the latino community has really become the spark plug of america's economic engine, latinos have not yet learned to take full advantage of mainstream financial mechanisms and opportunities. We are still challenged by learning to link our assets, our income and our education that will help our latino families and entrepreneurs tap those mechanisms and use them to create even greater opportunities for the achievement of economic progress. So our recommendation would be a properly coordinated campaign between the public/private/business organizations, non-profit sectors, the spearheaded or facilitated by the city would really set a benchmark within the hispanic community on the significance of transference of wealth to future generations how that transfer can communicate to empowerment and success. In the areas of cultural arts, one of the key issues facing hispanic latino cultural arts organizations is the threat of displacement. Latino arts community continues to face the challenge of finding affordable and permanent space. Over the years the city acknowledged this ongoing challenge and actually offered city owned lease agreements for various arts organizations, however there's a perception the same opportunities have not been available for hispanic latino arts organizations. Our recommendation would be the city consider developing an inventory for potential and available city-owned space that's can be used by hispanic/latino art organizations as interim and long-term solutions. Furthermore a program could be developed that would match group with certain spaces with reasonable rental prices creating opportunities for both hispanic/latino artists and for the city of austin. Generating income for the city of austin. The latino community want the opportunity to showcase their work and they want an opportunity to increase patronage. The show place for latino arts is obviously the mexican american cultural center. Survey and forum participant cite that the mac has not yet reached full potential and completion. So we would propose that the city should address the feasibility of efforts to fund completion of the additional phases of the mac. The additional phases would include a -- an 800 seat theater with the objective of building theater and practice space to accommodate latino performing artists and to see an increase in patronage. Another prevalent issue is funding, which is always contentious. We acknowledge that the allocation process is just that, contentious. Despite the fact that it has been revamped with good intentions, a fair and equitable distribution, we heard from local hispanic latino art are artists that funding remains a challenge. We recommend ongoing review of the current process that should include at minimum regular reporting and automatic audits to he felt I can't tell the level of funding to local organizations. The funding aloe case proceedingst minimum should take into consideration the growing hispanic community and the growing latino arts organization. We would actually take it a step further and suggest that you utilize the existing m.b.e. w.b.e. Program as a potential model for the equitable distribution of cultural arts funds. program conducts regular disparity and availability studies on the growing number of minority and women owned businesses and then sets goals for minority and women owned contracting funding opportunities so you could use that same approach and the cultural arts funding process being that we have different cultures that apply and are successful in getting cultural arts funding, but I think that you need to look the at distribution of how those funds are being distributed and take into consideration the minority community. In the area of health, the forum engendered specific

discussion on health care in austin and large hispanic growing population. One of the most significant hurdles is the public's perception and understanding of the delivery of health care in the community. The distinction between the travis county health care district and the city and other governmental entities while complex needs to be understood in order to recognize the services these separate entities are tasked to provide or community. The health care district is a separate political subdivision distinct from the city and county governments. The district's overarching role is to purchase health care services from various providers for [indiscernible] in travis county. So bottom line is there continues to be a lot of confusion, misunderstanding, about the role of the city, about the role of the travis county health care district as relates to the delivery of health care services. So our recommendation would be that -- that while it remains unclear for many residents that the health care district and the community care are the primary care service providers over the clinic system, and this is further confirmed in our survey results when we asked the question, as relates to the top issues of health care, citizens expressed and referenced the medical assistance program, which is now a travis county health care district responsibility. So again there's -- there continues to be confusion regarding who is doing what. Our recommendation would be that -- that perhaps the city consider a memorandum of understanding, with the health care district. So that clearly we can clarify and communicate the role that everybody would be playing as relates to the delivery of health care services. But more importantly it's imperative that a comprehensive and well thought out bilingual education and public education strategy be implemented. In addition communication of the various programs and services available on the website that clearly articulates who is responsible for what. We need to also ensure that both the 211 and 311 city operators are providing accurate and correct information regarding the delivery of health care services and who is managing the health care clinics. The need far outweighs the capacity of the local community health care clinics. That's a perception that the finite number of dollars available to which in turn affect the number of providers hired, clinic hours, number of sites, types of services, there's a perception there's a limit to this these services. Our recommendation would be that the city assist in maybe addressing financial needs and collaborate with them in finding federal and state resources to realize greater medical capacity in the primary care area. Given that we do have a council subcommittee on public health and human services, perhaps that's a more appropriate forum for this discussion to take place. It's also recommended that -- that there be an emphasis on the communication strategy of the various health care programs and services and include a partnership with perhaps the city of austin public information office and the health care district to maximize on resources and proven strategies implemented by the city in its outreach effort and public engagement of the hispanic community with this particular initiative. We would also recommend collaborative and ongoing network opportunities to talk about health care with other health cared a cats. The community action network is definitely a good example of how we can continue to use as an appropriate forum to maximize these discussions. I want to now get into general recommendations. We heard that almost 30% of hispanics believe that the quality of life in austin is either very poor or poor and I think there are a number of potential reasons why that perception may exist, including the top three pressing issues cite understand the survey. Obviously there continues to be gaps in public education, academic sucks of hispanic students, also in the -- academic success of hispanic students, challenges with so many people unemployed and -- and the other issues of being able to access affordable health care. It is not culturally monolithic. There's a growing concern that those outside of the ethnicity have a tendency to categorize all hispanics as the

same. This is often offensive and it's creating an internal culture class within the hispanic community. While mexican americans represent the largest hispanic population in austin, the second largest group are actually puerto ricans, people from cuba, goes on, subcultures within the subculture, again people have a tendency to maybe lump all of the hispanic groups together. As ryan robinson our demographer pointed out at the onset, there's a potential emergence for two communities, one fully integrated and engaged the other isolated. We have a large foreign born population that lives here in austin. In fact I believe over a 25 year party austin travis county has documented about 130,000 foreign born living within austin and 58% of those are individuals from mexico and then central america. With the tremendous growth in hispanic community, there is a desire for additional hispanic healthation on the city council. Perceptions continue to exist that the single hispanic councilmember is expected to lead, address, and resolve all of the challenges that face the hispanic community. There was also equal concern about the lack of geographic representation citing ongoing disparities between communities of east and west austin. You know, it's important to note that hispanics will continue to play a significant role in preparing austin for the future. Although decision makers have acknowledged hispanic community as stakeholders in the decision making process, ultimately it's incumbents upon the hispanic community to assume a leadership role and seek out opportunities to provide input in the development of sound public policies and strategies geared towards improving the overall quality of life. For all of austin. Because what has an impact on the hispanic community has an overall impact, over all of our citizens. So getting into some of the specific recommendations here. We would recommend that in order to ensure that the hispanic quality of life initiative oversight committee team going to be put together, that the city process be inclusive and that it represent all of the various subcultures within the hispanic latino community. We would recommend that the city consider re-evaluating the commission on immigrant affairs with perhaps a vision to create a hispanic latino affairs commission. We would also encourage that the city consider reviewing alternate means of electing city representation. My personal opinion on that would be we definitely need to wait until the new census data comes out before we have that discussion. Inevitably that needs to take place. The legislature will do something about it or citizens will feel compelled to bring forward their own referendum. We also need to seek out opportunities to ensure there is diverse and inclusion on all boards and commissions. We need to develop a city-wide bilingual outreach and education plan. There's always room for improvement and fundamentally it starts with how we disseminate and communicate with the citizens. There's always room for improvement. The reality is that we have a resource available and that we have -- a multi-lingual community. In austin. We also want to ensure that the city's workforce acknowledges the culture and value of the community. [Reading graphic] I'm going to take it a step further back in 2005 two task forces -- [one moment please for change in captioners]

we'll be happy to answer any questions.

Mayor and council, as we discussed early on in this process, we are not the next phase of this process, and that will be for the city manager to form an oversight team to now take the consultant's report and recommendations and the citizen group would have an opportunity to go through details, hold one more forum and then develop a citizen oversight or task force report and recommendations. That could be several things. It could result in an agreement that the consultant's report is complete and accurate or that could also look like modifications to some of the recommendations or even new recommendations.

And that's -- that process will happen over the next several months. Once that process is completed, then the city staff, the core team that i referred to at the beginning, and at this point I would like to recognize the staff that has been working very closely with this. In the city manager's office. Taja beakly has been the key coordinator for helping get all these presentation, reports, making sure everything gets done. The staff that led each of the forums and had a specific role as assistant manager burton herraras. D juarez. Joe barnes and shannon jones that helped with that effort. From p.i.o. renee and victor. And that -- that is our city core team that is leading this initiative. So this core team, again, under the leadership and direction of the city manager, would then take the consultant's report, the citizen oversight report and we will come back to the city council with a final set of recommendations and actual plan to move forward. And that will be in a final presentation again over the next several months. With that, that completes our presentation, and again, i would like to remind everyone that the presentation as well as the report will be online for individuals to review if they would like to go into this any further.

Mayor Leffingwell: Questions or comments, council? Mayor pro tem.

Martinez: Thanks, mayor. Rudy, I want to thank you guys, paul, for all the work you've done and I want to thank this council for the unanimous support and the city manager for finding the funding in a difficult budget time to make sure we move forward with this initiative. I did have a couple of questions, though, about the citizens task force and how that's going to be made up and who we're contemplating -- is council going to be involved in creating that citizens task force?

Mayor pro tem, what we envision will be for -- we'll be working with the city manager to identify a list of interested citizens and in fact we have received several interest of community members that would like to serve on this task force. So we'll identify a set of four to seven individuals that we believe could help us go through this and conduct that forum and present some recommendations to the council. But the city manager will be presenting that to the council for final approval.

Martinez: I look forward to working with city manager mark ott and whoever else is part of selecting the team and I invite the rest of the council as well to make sure that we have that -- a diverse enough group that represents all the different issues that quality of live report speaks to. Thank you so much. Mayor?

Mayor Leffingwell: Councilmember shade first, and then city manager. You are next, councilmember cole.

Shade: My question is actually for paul. You made a quick comment early on by my request to address issues of statistic, you know, a valid group of people so i notice that you have -- let's see, 650 people in the forums and 1,000 people that participated in the online survey.

It was the other way around. 650 People took the online survey and written survey and about 1,000 people actually participated in the actual forums.

Shade: Are there duplicates or any way you are able to determine -- I mean were many of them the

same people or --

actually it was very inclusive. We had pretty -- what was actually very exciting news that you had people who normally have not been a part of any type of city process actually come and speak, which was one of the reasons why we -- we structured the forums the way we did. We had people show up at one time to the forum and that can be an intimidating forum for people to get up and speak so we did provide participants an opportunity to write their comments and issues down on a piece of paper and those were collected by my staff. We gave them an opportunity to complete the survey. We had paper copies available at all the forums. And then they followed up and sent us information directly.

Shade: Yeah, what I'm really asking is are the 1650 people that you gathered this information from individuals or were there duplicates, say, for instance, the thousand people that do the survey also show up and how did you validate that?

Actually there was actually pretty individual. There w duplications, but I'm happy to say most of them were individual responses. The number is probably a little higher taking that into consideration so we did reduce that a little bit. I don't remember the number.

Shade: I'm sorry, so in other words, you were able to validate you had individual responses on the online survey.

Yes.

Shade: And how did you do that? How do you know those were not the same people doing the same survey over and over again?

We asked them to provide their information, which was optional, their location and their zip code so we were able to disseminate that and get rid of the duplicates. There were some that we collected at the actual forums who we knew had already collected so we did pull those out as well. I'm sorry, I get it now. We did go through the process of scrubbing the list to make sure we eliminated any duplicates. Those who did offer to leave their name on the survey, we went through the process.

Shade: So is validation was you literally looking at the e-mail, the way somebody self-report. The reason I'm asking is it's 1650 individuals that we got information from and I'm trying to gather how statistically valid that pool is because, as you mention, there are 25,000 business owners so, you know, if you had 300 people that showed up at the economic development one, it's still a very small sample. And especially if those were some of the same people that also did the online survey. I was curious when I look at the survey results, you know, how indicative is it of the community at large when you have 60% of the respondents with bachelor's degrees. And probably mirror the hispanic community at large in this community, I doubt 60% of them have bachelor's degrees.

You're right and I believe the number the demographer has is more around 15% or 18%. But I think that very issue you are speaking to addresses one of the ongoing challenges is the lack of participation by

the hispanic community. Despite the fact we have almost 500,000 hispanics in austin-travis county, the reality is that very few people are involved. The prelude to this initiative, if you will, was initiative done facilitated by the united way that looked at the issue of hispanic engagement and volunteerism and one of the challenges was the fact that, you know, despite the number of hispanics, very few people get involved in the process. I think that's one of the challenges that we have. One of the things that i pointed out was ultimately hispanics need to take a leadership role and basically being involved in the decision-making process. And in this particular case you all helped bring this initiative forward, but it's really incumbent upon our community to be involved and participate.

Shade: But I mean if the city has a challenge, then we hire an expert who has the connections and you don't get much more in the way of results it really makes the challenge that much more obviously mammoth in size. The other question I had was i was really intrigued with the wi-fi discussion and the technology gap. And I spend a lot of time with people who are young, you know, and what I'm amazed at young hispanics that are, you know, at high schools and what I'm amazed at is to our earlier conversation, texting is everything. And so wi-fi almost is like passe. I mean did you guys look at the technology tools that young people were using? Because the next generation, i mean they have every new gadget, you know, and texting is the way to reach them.

We did that. We actually did some social marketing, if you will, using the youtube, the twitter and to encourage people to come out and attend the forums.

Shade: But those are more online. I'm talking text messaging.

Sure.

Shade: Which they shouldn't be doing when they are driving clearly.

Right.

Shade: But, you know, the young people that I've worked with through some of the programs that I volunteer with, they are not going to get on a computer, but if i text them, they respond. It's just something to think about.

Absolutely. Thank you, councilmember.

Mayor Leffingwell: City manager for a comment.

Thank you, mayor. I just wanted to acknowledge the mayor pro tem's comments earlier about the community oversight team and just indicate that we welcome yours and the entire council's guidance as we attempt to put together a team that's truly representative. So I just wanted to say that back in regard to your comment.

Mayor Leffingwell: Thank you. Councilmember cole.

Cole: I just wanted to say, paul, that I appreciate the that you and the committee and the whole community has done on this. You made a com about the african-american quality of life and your seeing a need to reconvene that together with the hispanic task force, and i just kind of wanted to get a better understanding of what you envisioned so I could help with that process.

That -- that particular comment and recommendation was more directed at the quality of education and quality of life initiative that aisd and the city put forth back in 2005, I believe it was. And one of the things that became very apparent during the forum on education was that we are hearing a lot of issues that people came and testified and spoke to during that 2005 process. So for us as a consultant that was sort of a flag or indicator to us that maybe we need to go back and look at what recommendations were developed to see how those particular recommendations were implemented and then see if maybe we could cross tab or identify similarities or common themes with what we're able to document in this process. And my guess it's going to be when we look at those you are going to see a lot of commonality which means there's still a lot of work to do in those areas. Given the student population in aids has change understand the last 20, 25 years, it used to be only a 20% minority school population and now it's 70% african-american, hispanics. Obviously we know that education equals economics and because minority students represent such a large portion of the student population, it probably is incumbent upon us to go back and look to see where we're at, but also reconvene those leader ships. At the end of the day we know it can't just be the city's responsibility and the school district's responsibility, it has to be the community's responsibility. Get those community leaders who were on those two task forces and have them kind of come back and reconnect and talk to the city and talk to the school district to see where they are at relates to implementing those recommendations that came forward.

Cole: I remember when some of that work was done because I actually before i was on council served on the greater austin chamber of commerce education committee and I know they work closely with aisd and have worked closely with the community, so I would be more than glad to temperature with that effort. -- Help with that effort.

Thank you, councilmember.

Mayor Leffingwell: Councilmember morrison.

Morrison: I want to thank you for your work and the staff, how much they've put into this, and I realize that we're only part way through it and there will be a lot more refinement and discussion. What came up in some of your presentation was that we have some places in the city, some vehicles to be talking about these things. In fact, I think I see the chair of the arts commission out there. A great place and venue for some of this discussion and public health subcommittee, of course. I wanted to focus in on the joint subcommittee of aisd and the city to follow up. Last year with councilmember cole on the joint subcommittee and myself and mayor wynn, we got some really great focus and programs going on that i think really are going to be addressing in general address some of the topics that you've brought up in terms of, you know, educational impact of some of the developments that we have, working together on

planning, the dropout work that you are talking about. So I would really look forward to sitting down and talking with you maybe and lombreros to talk about how we can focus in and maybe, you know, really pinpoint some better service that we could be doing if those programs get along so I'll look forward to that.

Thank you, councilmember.

Mayor, I would like to quickly elaborate further on the discussion councilmember shade brought up regarding wi-fi. I believe one of the key points we discovered and maybe some of us assumed what we found is maybe there is not a gap in the knowledge of use of technology, but there's certainly a gap on the access to technology. I think schools and being the father of a high school kid there's certainly an assumption by most educators that every kid has a computer and internet access, and that's a dangerous assumption because many of the assignments that are given to our young people have that assumption and so one of the things that we discovered is that is certainly a gap that affects the entire community and I think that was more of the focus that we wanted to address.

Shade: In a we not forget about so many of the young people are using beyond the computers. Technology now means a lot more than simply internet access, you know, at a library or wi-fi or, you know, a home computer and I recognize most people aren't so fortunate to have a computer at home.

Mayor Leffingwell: Thank garza and mr. saldana. We look forward to making more progress and we'll see you at your next report if not before. Before. [Applause]

Mayor Leffingwell: Council, I believe we can now take up item 1, which was pulled from the consent agenda by councilmember morrison. Councilmember.

Morrison: Thank you, mayor. Just very briefly, on the minutes for august 6, that's where we had some conflicts, parliamentarian sequences going on with regard on our historic district ordinance and there was confusion in the way they had been presented. A lot of it was conversation between councilmember shade and myself. So what I've got here are just corrections to that that I've worked with councilmember shade so I would just like to make a motion that we make those four small corrections to the minutes. And I apologize that previously I didn't know the time line --

Mayor Leffingwell: Could I ask everyone to hold it down as you exit? Wait until you get outside before resuming your conversations. Go ahead.

Morrison: I have now learned the time line that the clerk works on with the minutes so we'll be able to get this done a little more efficiently, but with that I would like to move that we make the amendments. You all have them in front of you.

Mayor Leffingwell: So the motion is to approve the minutes for I believe it's four separate meetings.

Morrison: That's correct, with the change to august 6th that I've provided to the clerk.

Mayor Leffingwell: With the changes that you've provided to the clerk.

Morrison: Yes. Thank you.

Mayor Leffingwell: Motion by councilmember morrison. Seconded by councilmember shade. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of 7-0. Without objection, council, I'd like to go to 7 and 8 at the request of councilmember spelman. We'll take those two items up together and I believe we have a staff presentation on that.

My name is lorraine wiser, manager of real estate for the city of austin. And those two items are related to the retail space here at city hall and the recommendation that we cut the rent down. It's a trend that's happening in the economy and in the city. We're at the lowest market rates for retail space since 1988. And we some research with a local group and also we had some staff review some of the leases for downtown to see what they were doing.

Mayor Leffingwell: Councilmember spelman.

Spelman: Make sure i understand. When you say this is the lowest retail rent since 1988, are you taking inflation into account or is this dollar to dollar?

Well, actually, charles heimstadt was here to talk about it and that's a study he did and I'm really not sure.

Spelman: One way or another, we're still talking about the sort of retail market at least in downtown that we were dealing with in THE LATE 1980s.

Right.

Spelman: Okay. Which, of course, is the bottom of the bust and as low as downtown ever got was when I came to town in 19 # 8 and stores were closing and nobody went down here.

That's correct.

Spelman: Could you walk us through very, very briefly what the current terms of our leases with austin java and run-tex are and what you are going to change them to?

Yes, sir. On the austin java lease, the current temperatures is 7% of growth -- terms is 7% of gross

income and we're recommending that we cut that down to 4%. They are currently behind on their rent so we're asking for a one-time rebate for the amount of 15,368. And that they would have to have a plan to come current with their lease -- with their payments that they are behind. Okay, Austin -- I mean fit city was based on \$27 a square foot. And they paid 6% of their rent on income over 645,000. And now we're recommending that the lease be at 1050 a square foot.

Spelman: And no percentage of gross sales.

That's right.

Spelman: Okay. That's a huge reduction in the rent. Are these reductions in rents consistent with other reductions in rents going on elsewhere in the central business district?

Yes, it is.

Spelman: Is there any evidence -- is there any reason to believe that our tenants are going to be substantially or better rents than they would be able to get elsewhere on second street or elsewhere in the central business district? Are we undercutting the market?

I think that to keep tenants in the space is very important. When I was talking to some of the second street retail that having vacant space, it creates a problem and a lack of confidence in the second street retail. So that's a big problem especially as we go forward. Also the construction of the w and the -- we're at the end of the second street retail so we don't have a lot of foot traffic down there. We're also looked at their sales figures and their sales figures have dropped considerably. So what we're trying to do is just keep tenants in the building. Also with fit city, usually a tenant comes in and they require finish-out. Fit city just took the space as is and -- but it is really not the best space for them because it -- they sell clothing lines and shoes and there's no dressing rooms or restrooms, so that's created -- so that was another consideration when we looked at the leases and are comparing them.

Mayor Leffingwell: We have a comment from Mr. Garza. Did you want to add to that?

Well, we wanted to say that et cetera temporary. We think that with the w being completed that's going to create enough foot traffic and so we would like to recommend this and then if the time that we see their sales figures are going up, we could go back in and renegotiate the lease.

Spelman: Have you had a chance to discuss what it is we're doing with any of the merchants or the landlords elsewhere on second street corridor?

No, I have not.

Spelman: But you haven't heard any complaints from anybody locally about this, have you?

I have not.

Spelman: The reason i pulled the item, mayor, is because there had been some discussion from some people in the retail community not inside the central business district that we may be undercutting the market and therefore through a back odor mechanism offering a subsidy to retailers. And I just wanted to clear up it looks like leases were -- the reduction in leases we're talking about here is consistent with reductions in lease elsewhere in the central business district. This is basically what the market is going to have to bear at a very soft retail market right now.

Rudy, you got anything to add? Is that a fair statement that I just made?

Yes, sir.

Spelman: Mayor, move approval of items 7 and 8.

Mayor Leffingwell: Councilmember spelman moves to approve items 7 and 8 seconded by the mayor pro tem. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote 7-0. We did have jeffrey kirk signed up to speak if there are questions. You're who? You're jeff kirk? You were signed up to speak if there were questions.

[Inaudible]

Mayor Leffingwell: Well, you know, we've already passed the item and you were signed up -- when you are signed up to speak if there are questions, that means if the councilmembers have questions of you.

[Inaudible]

Spelman: Mayor, I move to reconsider the items so we can kirk's statements.

Mayor Leffingwell: Councilmember spelman moves to reconsider. Suspected by councilman riley. All those in favor please say aye?

Aye.

Mayor Leffingwell: Passes on a vote of 7-0 and you are entitled to come up and speak for three minutes.

Umm, may night is jeff kirk. I am a business owner in the second street district. I own kirk gallery which is catty corner to city hall on guadalupe street. First of all I would like to say that it is not true that the --

that doing this proposal would not undercut the rest of the market. The going rate right now for second street retail is 28 to \$32 a square foot. That's number 1. Number 2, the levels of incentives being proposed for austin java and run-tex are of an order of magnitude better than what amli is offering its tenants, myself included, as incentives. Just a case in point, the offer on the table for austin java and run-tex is 18 missouri abatement. The best amli offered is only a six-month rent deferral. There's a big difference. Deferral means they are offering to do a short-term, you know, six-month cut of my rent this year that would then be piggybacked on to rent next year. So the net revenue that amli would be getting is not cut at all. And it's only for a six-month period and it's only 50% versus the two-thirds cut and a rent rebate that is being proposed for these two businesses. So there's an issue of just that being out of line with the market and also the fact that amli is just not prove even on its own that any sort of willingness to offer -- i agree those type of rent incentives being offered are needed, but it is goods to be a wild disparity are the rest of the district. Other retailers are not getting any better deals. No abatements have been offered to businesses in the immediate vicinity. So I think that -- I mean i would be -- support a -- the two motions before council today, but only if the city can somehow compel amli to offer something similar to businesses in the rest of the district. And I would question just that I mean it's in the statesman today that austin java is breaking even. A lot of us who are lesser known names and even less of traffic in the new block are far from breaking even and are much more in need of assistance than both businesses here are well established austin businesses that have branches elsewhere that can help subsidize any losses here in the short term.

Mayor Leffingwell: Thank you.

Spelman: Mayor, if i could --

Mayor Leffingwell: I would also note that there were two other persons signed up on the item not wishing to speak. Lance johnson was for and hill able against. Councilmember spelman.

Spelman: I was wondering if I could ask you a question, rudy. We're talking about -- well, the directly comparable case kirk's information was the run-tex lease because the austin java lease is based on percentage of sales. Currently we're \$28 a square foot plus a percentage of gross sales on top of that. That's consistent with rents a few months ago?

Councilmember, \$28 is not the market rate. We've worked closely with charles of capital market research who I think everyone recognizes his expertise in the field. We also shared with amli specifically what we were doing and their response to us was that it did -- it was similar to what they were doing. They are handling their leases on a case-by-case basis. I can't speak to what they are doing because, again, we have no authority or contractual relationship with them. But we were able to share some information and based on the response from amli they felt like it was similar to actions they were taking.

Spelman: Have the conversations with amli been through you and your office or through charles or some other third party?

With my office and my staff.

Spelman: So you've personally talked to people at amli and have a sense --

our deputy chief financial officer and our real estate manager have been in contact with them.

Spelman: So the information they have been getting from amli is the kind of changes in leases that we're making here are consistent with the kind of changes and leases they are making elsewhere in the district?

Yes, sir, and the run-tex lease is -- the modifications we made or the adjustments we made were due to a couple of key factors that lorraine mentioned in retail business, no restrooms and no dressing rooms. So it does make it difficult for customers if they want to try on a shirt or shorts, they pretty much just have to buy it. There is no facilities there. And the council recalls we actually did have a city store there and we painfully experienced that it's a difficult location to be in.

Spelman: We didn't make any money out of the city store.

We did not.

Spelman: Any other reasons for believing -- i think you mentioned a couple of them, just to make sure we have them out. Why city hall location may not be a particularly good location, competitive location right now?

I think we believe that the construction directly across the street is a significant impact at this point. corosa and the owners of austin java recognize and we recognize that if we can help them stay in the building, which helps the entire district, once the w and that area is completed in the construction, things will be much better for them and for the entire district. But it's just getting to that point and that's why we have structured these rent reductions to be in line for the beginning of the w opening.

Spelman: Explain how austin java and run-tex staying where they are is --

unfortunately his proposal opinion is that it does not fare well for the district to begin to have a dark locations on the district, that it's better for everyone's business to see commerce happening up and down the corridor, that we don't start seeing closed for business signs on a district that we're trying to continue to build.

Spelman: I think there's an issue too about pedestrian patterns. That people will continue to walk down a street so long as there is something of i believe interest at the street level. -- Visual interest at the street level. Is that lavaca? There's nothing worth looking at, go back down the other street. If it looks like austin java and run-tkx or something interesting to look in the window they might keep walking which would definitely have an immediate effect on the sales of businesses the next block over.

Yes, sir, I believe that's heimstad alluded to that everyone benefits having biz continue to operate.

Spelman: I understand, mayor, this is probably going to be a controversial case because finding a direct comparable to city hall location is very difficult and that there will be a lot of people who will be paying higher rents in large part because they have better locations. These are not especially good locations, but I think it's necessary for us to keep somebody in the location for the benefit of the entire district and to keep people walking down second street. So once again I'll move approval of items 7 and 8.

Mayor Leffingwell: Councilmember spelman moves approval of items 7 and 8. Is there a second?
Seconded by councilmember riley.

Riley: I would like to ask a question for mr. kerr. I just want to make sure i understand your point. Help me understand how -- are you suggesting that reducing the rates for the two tenants in city hall actually has a negative impact on your business?

I would not say it would have a negative impact in that -- I mean basically because amli has been so abject in its refusal to offer any rent concessions, I am planning on most likely moving out unless they are -- do come to their senses and I had already begun the process of trying to sublease my space at the current rates for subleases around here, I mean amli has successfully released spaces on second street that have been vacated for 30 to 32 a square foot and I'm looking to sublease my own space as well. So having a perceived value of my neighbor just directly -- diagonally across the street having a rent of 1050 a square foot, that would negatively affect me. I agree keeping businesses in place but the problem is amli is also due to their absolutist stance on not offering rent abatements, there's are six businesses, to my knowledge, in the original block of second whose lease are up next year and they are accessible leaving an as it stands right now because they can get a year's free rent, to use an example, elsewhere in town. My point is that austin java and run-tex, they are lucky to have a city which is reasonable as a landlord, unfortunately the district will be negatively impacted by them having so low rates unless amli is willing to consider a similar.

Riley: The argument is that the perceived value of the other spaces, the people will think they ought to get lower rates because lower rates are available in city hall.

That will be one of the effects, yes.

Riley: Okay.

Mayor Leffingwell: Council, I don't think we have time to take up another item 00 citizens communication so without objection --

mayor, excuse me. A vote needs to be taken.

Mayor Leffingwell: Thank you. All right the motion is on the table. Motion by councilmember spelman,

seconded by councilmember riley. All those in favor please say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of 7-0. As I said, we've only got eight minutes before citizens communication so without objection I think we should go into recess and we'll be back on the dias at noon.

Mayor Leffingwell: Council, we are out of recess. A quorum the present. And we are about to take up citizens communications, but before we do, I want to make a brief statement. I am fully aware that nearly everyone that comes down to speak to us in citizens communication does so in a civil and orderly manner. However, due to an incident that occurred last week, i feel like I have to give some kind of advance notice that that is going to be required. At the first incidence of the use of profanity or violent behavior such as throwing things, just for example, or other inappropriate behavior, I will turn off the podium mics and I will ask the offending person to leave the council chambers. With that said, again, i realize it doesn't apply to most people, but if it applies to you, be forewarned. Mayor pro tem.

Martinez: Can I make a friendly suggestion as well that speakers remain at the podium and do not approach the dias. It just -- it's common courtesy if there is something that you would like to get to us, the clerk will gladly hand deliver that to us, but we need to add a little decorum to approaching the dias and throwing things.

Mayor Leffingwell: Well said. If you have written materials you want to distribute, give those to the clerk and the clerk will give them to us. The first speaker is gus pena. Gus pena.

Mayor, councilmembers, gus pena, city manager, let the record reflect I have never thrown anything at anybody. The firefighters to mandate to first responders to slow down and stop at red lights on calls to fire. I agree that this constitutes or can constitute a problem with traffic accidents, but nonetheless when you have a fire ongoing and it can compromise the lives of people and property, it is incumbent upon the firefighters to arrive as expeditiously as possible. So having a mandate, proposed mandate to say the firefighters stop at the stoplights adhere to the speed limit, it's okay, it's very commendable, but, but remember the other side of the equation also. Safety of the individuals that are involved in fires, safety of the firefighters also. Anyway, I'll leave it at that. I guess I don't support that. Now, we talked about texting and all that other stuff. Well, on august 30th of last year, our lord jesus christ gave us the right to live again. And I ask you to look at these pictures. We were nearly killed august 30th on mopac and 290. The officer, apd officer could not ascertain as to weather the lady who ran two red lights was texting, obviously she was not intoxicated because she was not arrested, I want to let people know i don't know what the heck she was doing but this could have been fatal to all my family. I'm here by the grace of god. The reason I say this is because what I'm going to speak to, item 23, and I'll put the comments aside until we reach that area. Mayor and council I want to thank you for all the hard work you've done on the budget. The issues that I bring forth on citizens communication are a lot of issues are asked to bring by the public, not me. Bearing that in mind when item 23 comes about, remember why i sign up for citizens communication and it is a right that everyone should be given. And thank you

for the youth programs, summer job programs, the city citizens programs -- the senior citizens programs. The police academy going forward was one of our issues also that we worked on other issues I want to thank you very much. I know we sometimes commend the elected officials, but people behind the scenes, the staff that do a lot of work and I want to commend them very much for that and thank you very much on behalf of the community, the people that ask me to bring forth the issues and concerns out there, there is a great problem out there with crime. Y'all don't know it, but we have a problem in this city. [Buzzer sounding]

thank you very much. I look forward to talking to you on item 23. Thank you.

Mayor Leffingwell: Thank you, gus. Next speaker is pat smith. Next speaker is carol anne rose kennedy.

Welcome back, council. I would like to apologize for the way I said what I said last week. And I'll try my best not to ever do that again. I told you all I was extremely sick. I am still very, very, very, very sick but I've got control of myself this morning. I'm going to speak on domestic violence. Ladies, you just have to leave the guy. Lucille, her story. In the bars in america across from the depots on a bar stool she took off her bra he thought he would get closer so he waltzed on over and he whispered you're breaking the law paragraph when the beer finally hit her she said I got the jitters because my nature mayors have turned into dreams he gave her a quarter, said go call your mother, you got the power to stifle her screams I picked a high time to leave you my dear, with two angry breasts and you are all out of beer I've had hard times, lived through sad crimes, this time you're crying I won't hear, i picked a high time to leave you my dear through pink shorts and roses and cheap wine and doses I never made you look small, through diapers and doldrums and daddy's hotel rooms, we waltzed, never having to crawl our sons and other daughters we led them to water, you are so surprised when they won't take a drink, roof leaks and peanut butter without toast and the bloody stopped-up kitchen sink. breast milk and cow's milk and flubbers with rubbers, i can't keep a smile on my face, brothers and sisters your diamonds seem so out of place. Through the terrible two sies and 20 and 30 sit back, learn to talk with a drawl, you can't wash your hands cuz you'll have to get dirty amazing the grace of it all where the hell are you going, a texan would sure understand, I begged you to love me, you tower above me, then you turn me away with your hand [buzzer sounding] I bow and I lift my head out of the sand because if you cannot hold me and love me for always, I'll look for another home land thank you.

Mayor Leffingwell: Thank you. [Applause] next speaker is cynthia valadez. Is it cynthia valdez or valadez?

Valadez. We have the extra a. Good afternoon. If we want austin to be a truly great community, then it is incumbent upon us all to work together to achieve this as of yet realized dream. To those of you who

strive to protect austin's character, please understand that for many of us who live in neighborhoods filled with people of color, we have yet to elect any city council person that truly represents us. Pseudo gentlemen who long ago agreed to allot one city seat for a latino and one city seat for an african-american did so out of fear that the white man's time was up and something drastic needed to be done to manage those people of color whose votes could one day outnumber theirs. These men of little faith had no understanding being, what they did have was economic and power to determine what the character and face of what austin would look like for years to come. My name is valadez and I'm here representing look lack council 85. As members of the advocacy organizations and people that believe in the creation of a fair and representative city, we ask you again to include us in the development of one more charter revision commission that will once and for all provide the voters of austin the opportunity to do the right thing. To allow the implementation of a single member district style of electing its highest ranking official so each and every citizen will have an equal and equitable voice in the determination of their respect of lives, the ability to hold that office holder responsible for votes on city council and accountable to the voters that elected them. Long ago our ancestors fought self-determination as tools necessary for the development of an environment that would allow all the abilities to achieve the highest quality of life. That cannot happen unless a voter referendum allowing for single-member districts passes. We wholeheartedly support this and ask each of you to commit to this end. We congratulate the newest members of the city council on your election and to you, mayor leffingwell, we applaud your success. Thank you very much.

Mayor Leffingwell: Thank you. Mayor pro tem.

Martinez: Just real briefly, this is only something that has been talked about for many years and voted on six times. I still am a strong advocate of it even though it's failed at the ballot box six times, I think that we now have almost -- I think it's unanimous support on the council to move forward with some form of geographical representation. So as soon as we can put it on the ballot, that's exactly what we intended to. valadez, when you speak about the gentlemen who crafted this agreement, I think I need to add a little more context to it because I actually am very familiar with the gentleman that crafted the agreement, and we did this with other folks to ensure representation. The moment the gentleman's agreement went into place he fought until he died to try to get full single-member districts. So I don't think it's a fair portrayal to say this person was a part of this out of fear and that fear being that the white man's vote would be dominated or I just don't -- I don't believe that was a part of his intention. And after the gentleman's agreement was established, those same gentlemen including david butts have worked to move toward a geographic form of representation and hopefully we'll be able to do that soon.

I didn't have the ability to look into ed wendler's mind and know what caused them to craft this agreement except for the fact that I look at as cause and effect. We still have to achieve that goal of single-member districts and we still have yet to hold city council persons accountable or responsible for their votes and that also means the appointment of members to boards and commissions. Which would truly then affect the quality of the life for the individual in their appropriate or representative neighborhoods. So thank you very much for your comments, mike, and thank you for your support for single-member districts.

Mayor Leffingwell: Thank you, Cynthia, and I would add my support for Mayor Pro Tem's comments that I have consistently supported moving towards single-member districts and will continue to do that with a view towards having an election after the census which is next year. Next speaker is Ronnie Gjemre.

How my image there. Okay. My name is Ronnie Reefers. News flash. Freedom for political speeches in no way limited to whatever you personally want to hear. In fact, no one has the power to pick and choose which amendments to our sacred apply constitution is the subpoena law of this nation including Austin. I've given one copy -- the creature [indiscernible] and Michael Martinez to share about the so-called federal reserve. I should have given them copies of our sacred constitution. My bad. I assumed you were familiar with this document. This weekend our puppet stooge so-called President Obama is attending the so-called North American Leader Summit previously known as the Security and Prosperity Partnership which is yet another unconstitutional, the federal reserve, NAFTA, et cetera, thank U.S. Ron Paul for HB 12007 to at least audit the Fed finally. Obama wants more power over outline of our lives for to so-called federal reserve which is neither. In fact the Fed is privately owned banks of criminals who are flooding our nation's economy just printing well over 25 trillion-dollar of rapidly evaporating currency to destroy our economy. That's their real goal, people. I agree, more people should have access -- the opportunity to address this body so just look to the Travis County Commissioners Court. There the only amendment to speak for three minutes is you have to show up. Unlike here where one has to make a reservation two weeks ahead of time. Mayor, if you really want more input from other concerned citizens, why not follow Judge Biscoe's lead. Cancel your more ronic two week prior reservation delaying as well as canceling your limit of 10 speakers only. Representing our interests, you should rejoice with more ideas from more citizens rather than limiting it to less. On free FM radio check out to weekdays and online 24/7. I suggest you also visit Net Ron Paul, also visit com to learn Rand Paul and his current run for Senate from Kentucky com and for more weekly updates call toll free 888-322-1414 and/or visit online ronpaul.org. [Buzzer sounding] read the constitution, people. So-called public service.

Mayor Leffingwell: Next speaker is Jose Quintero. Jose Quintero. Next is Philip Green. Philip Green. Okay.

Thank you, Mayor, City Council members, it's my first time speaking before the Council. I'm not here today to dispute the proven effects of fluoride and their benefits on teeth topically, I think it's been well established by the CDC and many World Health Organizations. I'm here to discuss the effects of fluoride compounds internally. And the science behind our current water fluoridation program. The science was largely Harold Hodge who has been a life-long proponent of fluoride. He is well known for his work to Atomic Energy Commission and chief toxicologist for the Manhattan Project during construction of the atomic bomb during World War II. He had become well aware of the many lawsuits brought about by workers injured by fluoride toxicity. In fact, in a document -- from the Atomic Energy Commission on October 8, 1947, and I quote, it says information which would invite or tend to encourage claims against the Atomic Energy Council should be reworded or deleted. So the science, and this is just one of many scientists whose research has brought about our current program has been school district by many things, -- skewed by many things. And the research has been done. The research is there. And I understand that several citizens and qualified experts have attempted to provide the Council with numerous scientific studies and data on the subject. And it appears my only conclusion could be that this information has been completely ignored or ridiculed by the Council for if up with of you had read

the.

Reporter: Ride deception or watched the hour-long movie we would not have fluoride in our water. Please, if you are tired of hearing citizens scream about bluer ride every week spend an hour and watch it or better yet read the book so you can understand at least why we're screaming. And one more point, an agenda 23, I think if anything we should be allotting more time tore citizens to speak. I don't think an hour every two weeks is that much time given to the community to voice their opinions and i don't think there should be further restrictions placed on citizens being able to give their piece of mind. Thank you very much.

Mayor Leffingwell: Question for you, councilmember riley?

Riley: Just for a point information, I just wanted to mention that I did recently ask a budget question about fluoridation. And I've learned that this year the water utility expects to spend about \$310,000 for the chemicals and then about \$3,100 on the labor costs. But they also said that since it was -- fluoridation was mandated by public referendum undertaking in 1972 that to discontinue the practice would require a repeal of the referendum. So just for --

yes, and I would encourage the city council to consider that repeal, but first I think it's necessary for you to educate yourself. I was not fully educated so i am still studying.

Mayor Leffingwell: Your time has expired.

But 98% --

Mayor Leffingwell: Councilmember shade.

Shade: I'll just add that we do hear your comments. I have gotten the video and have seen it. There's a lot of different opinions on this as you know from studying this and I was pleased that the environmental board is looking into it further and, you know, a you can tell from these meetings we have literally thousands of issues in front of us every week and that's why we have boards and commissions and I'm pleased you had some success with them and we'll look forward to what their recommendations are.

Thank you very much. I appreciate your time.

Mayor Leffingwell: Councilmember spelman.

Spelman: I would like to congratulate the speaker for not screaming although you mentioned several times the anti-fluoridation were screaming. I appreciate that and I hope you continue that practice. We are listening, thanks.

Mayor Leffingwell: And we appreciate that. And now we have another speaker on the same subject,

linda green.

Thank you mayor and city council. Having been here since 00 this morning, I so much more appreciate what a full plate you all have on your agenda day this and day out. And for that very reason i highly recommend that you take fluoride off your plate. And I would like to advise councilmember chris riley that while the fluoride came into effect under a referendum about 40 years ago, the people of austin were not advised that this fluoride would be coming from the toxic waste fertilizer industry, number one, and second that all of you city councilmembers and the mayor could actually vote to discontinue fluoridating our water without having to have a referendum where big business would come in and defeat us by bombarding the community with false advertisements as they have done on other issues. One of my big concerns about this whole fluoridated system is that it's automated. Although I believe that the plant that we toured, the automated system was built in THE EARLY 80s. And I work at the ticket counter at the airport where a lot of our ticket stock and boarding passes are automated, and about 95% of the time it works pretty well, but many, many times the automated systems don't work. They have to be fixed. And here again we have an archaic system that's going to have to be rebuilt. If you build a new water treatment plant, there's another automate system that's going to have to be monitored. The cost is 310,000 for just the product is very misleading because there must be, I'm sure, insurance that has to be covered for such a toxic substance as fluorosilicic acid. It cannot be contained in metal or glass. And with homeland security being so concerned about our terrorists these days, you know, it seems like having a huge pile of fluorosilicic acid we would be sitting ducks for possible terrorists if you are concerned about that. Every 20 seconds children are diagnosed with autism, which i find extraordinary. I would like you to consider that we should not be putting fluoride in the water. We don't want our children to be guinea pigs for chemicals like fluoride and I would suggest this huge epidemic of autism might be related to fluoride and maybe mercury in the vaccines. [Buzzer sounding] I appreciate you have a full plate and the citizens of austin have to face this with you. And we have many financial challenges. I hope you take this off of our --

Mayor Leffingwell: Thank you, linda.

Thank you.

Mayor Leffingwell: Next is paul robbins.

Mayor, council, citizens of austin, I'm paul robbins, environmental activist and consumer advocate. The author ambrose beers wrote a book called the devil's dictionary in which he described the word boundary in these words. Quote -- could you center that? Very good. In political geography, an imaginary line between two nations separating the imaginary rights of one from the imaginary rights of the other. So in the spirit in which this is meant, I want to again show you one of austin's imaginary rights. This would be article 7, section 11 of the city all revenue bonds issued by the city shall first be authorized by a majority of qualified electors voting at an election held for such purpose. This is a right that council routinely ignores. The council is now deliberating on spending half a billion dollars of money on a new water treatment plant. The best information that i have is that this will cost half a billion dollars and raise water rates by 25% over a five-year period for residential customers. This is to provide water

for people who do not yet live here while the city is in the most profound recession since THE BUST IN THE 198s AND There is no election planned or contemplated. This is despite the fact that the majority of council is on record supporting such an election at least the last time I knew. Of course, if I don't like the fact that my imaginary right to vote on utility expenditures is violated, I'm free to protest. Well, not always. According to the new council rules, I'll be able to protest at citizens communication only once every third meeting. And this is despite the fact THAT IN THE 198s, CITIZENS Communication was an hour long. But wait, I can protest at various agenda items related to the water treatment plant. Well, not always. If the mayor wish oh, he can limit public comment on agenda items and propose them at the end of the meeting the way he did a few weeks ago when dozens of people were waiting to talk about water treatment plant 4. Most of them against. So it would seem like the only rights that are guaranteed are the right to be cynical, which is not in the city charter, and the right to respectfully -- resent fully pay for water increases would believe are justified. [Applause]

Mayor Leffingwell: Next speaker is robbed g. McDONALD. Good to see you all again. Alternative energy sources, wind, hydro thermal, electric productions, we could do a lot more than we have been doing. I've been telling you all for a while now that we could put solar panels on our street light poles. Not one of you have called back yet to say, hey, let's sit down and meet about this. I'm disappointed in that. With the new photovoltaic professor has designed and developed and hopefully will be able to start manufacturing here in austin, I hope, it's a soft photovoltaic system, it's not a glass. It rolls up like fabric. If we took that and put those on our street light poles and instead of paying for our street light poles every day, every night, we could have them generaing electricity every day. During the heat of the day when everybody is using their ac. We could put power into the power grid system. Every day. Now, some people would say, well, how would we pay for that? Well, we could pay with it out of city money initially and let the system pay back on to the city to recuperate. We could do like the lady bird johnson's street of flowers memorials and instead of doing a flower memorial we could give the people option to do an energy memorial in somebody's name. And put a panel on a street light pole. You know, there are things and ways that we could do this if you all want to make a difference. I'll give you the design for the brackets holding up the solar system -- the solar sails is what I'm going to call them on our light poles. If you will take a percentage of the savings and designate it towards homelessness prevention. Now, if you are willing to do that, any of you, if one of you city councilmembers or the city manager will stick up his hand and say sounds like a good idea, let's have our light poles making energy during the day and let's start really helping the homeless people that need it. 22 Homicides in austin last year. 136 Homeless people died on the street. What have we done for them? Do we just forget them? Do we sweep the homeless factor underneath our carpet and say, oh, we don't have a homeless problem? Homelessness is -- [buzzer sounding] we can do something about it.

Mayor Leffingwell: Thank you, robert. [Applause] is pat smith here? Pat smith in council, those are all the speakers we have signed up to speak in citizens communications. So without objection, the city council will go into closed section pursuant to section 071 of the government code for consultation with legal counsel to take up two items. Item 68 concerning city of austin versus reagan national advertising of austin, incorporated, cause number d-1-gv-094461 in the district court of travis county, texas, 126th judicial district. District. Item 85. Council will go into closed 072 of the government code which allows discussion of real property to take up two items. Item 66 to consider the acquisition of approximately 4

acres in northeast austin for a street and bridge facility, and number 67 to consider the acquisition of 5 acres in northeast austin for warehouse space. Is there any objection to going into executive session on the items announced? Hearing no objection, the council will now go into executive session.

Mayor Leffingwell: We e out of closed session. In closed session we took up and discussed legal issues related to item 68, concerning city of austin versus reagan national advertising of austin incorporated, cause number d-1-gb 0900461 in the district court of travis county, texas, 126th judicial district, and item 85 concerning an appeal of the renewal of outdoor music venue permit for atx sports bar. No action was taken. The latter item, council, is related to item number 90 on our agenda. Without objection, I would suggest that item number 90 be withdrawn. Is there objection? Hearing none, item number 90 is withdrawn. The way that I would like to proceed from this point, a little bit out of order, without oxygen, is fers take up a series of items, 69 through 72, that have to do with discussion and possible action on bond sales. It's my understanding that we have to get this done before the store closes today. So -- and that's coming up on us pretty quickly. And it shouldn't take that much time. And then we could take up briefing on the mueller local government corporation, which again is not likely to take much time. And item number 73, a report from ati, will be postponed, until september 24th we will 24th. We will go do that again without objection. With that said, after we take up these five quick items, again without objection, we will take up item number 12, which is the sound check item. So staff, is there a presentation beginning with item 69, 70, 71 and 72.

Good afternoon, council, I'm bill newman with financial management. We serve as financial advisers with the city. First to discuss item 69, excuse me, what we're seeking on item number 69 is authorization from you to go forth for the parameter sale on 15 million dollars' worth of bonds for the robert mueller project. That project -- this money, I should say, will be used to reimburse the developer for infrastructure improvements that he's already made. The reason for the resolution is to go ahead and get authority to issue this within the basis of reasonable parameters of finance so we can move forward quickly on this sale. The developer cost if you would on accruing this thing as you go forward is very high. The sooner we can get it done the better off we are. We think we can bring this thing to market in about two weeks f I could, very quickly I want to introduce the are representative from carmen best is here. And that said I would ask for your approval on that item. And I think jeff with the staff is going to talk more about it when you meet as the board. If you have any questions, I'm happy to try to answer them.

Mayor Leffingwell: I'll entertain a motion to approve item number 69. Mayor pro tem moves to approve item 69. Is there a second? Seconded by councilmember spelman. Any discussion? All in favor say aye? that passes on a vote of six to zero with councilmember cole off the dais. We go to item 70.

Mayor, can I talk to you about all three of these items, 70, 71 and 72.

Mayor Leffingwell: Yes, sir. Absolutely.

These relate to the -- don henderson is going to pass out these books --

Mayor Leffingwell: Pass them down. Just --

these items amount to the sale of public improvement bonds series 2009-a and 2009-b. 2009-A is for \$20,905,000. 29-B, \$78,460,000. As well as items number 71 and 72, which exists of \$12,500,000 certificates of obligation, series 2009, and 8 million public property finance contractual obligations, also series 2009. You see on the second page of the booklet that don just handed out what the use of the proceeds will be for. The players on this transaction, it was a negotiated transaction, we were in the market for the last two days for that matter to get these bonds sold. Jp morgan as well estrada hinojosa were your managing partners. To start briefly there and talk about the ratings, as a matter of course every year we go through the rating process to get our bonds rated. In economic times that we have now, it was not easy, I'll put it that way, to get your bonds reconfirmed, your ratings reconfirmed. I will tell you that we had a good story to tell. We had some good people telling the story. The mayor, mayor pro tem, city manager and finance staff did an excellent job of conveying our story to the rating agencies. I can't say that it was a no brainer for them, but it sure made it easier for them give enthe good news we could give them. I'm proud to say we have a rating of double a plus, a moody's rating of double a one and a standard and poor's rating of triple a, which we are the most proud of. We had a quiet market this week. It was a lazy summer day's trading. Page five shows you the 20 year versus the 30 year treasury. There's one anomaly. That merely shows that people jumped on 30-year treasuries that day because they were trying to seek a flight to quality. We were in market this week with fort worth, san francisco, rockdale, dallas county and so forth. And again, we sold four different types of bonds. I'm going to ask don henderson to come up and talk about the tales from this bond issue.

On page 7 you see the maturity schedules which shows the principal amounts, principal dates.

Could I interrupt you? I left something out. I apologize. You notice back on the size of the bond sale, we had originally asked council to approve \$115 million in bonds. The size has been broken down for the two sales of public improvement bonds to about 99,365,000. The reason for that is two fold. We had to adjust and take out the \$10 million in affordable housing bonds. Those bonds were deemed to be taxable. You cannot sell -- don will talk about this -- the build america bonds on a taxable basis and include that type of bond and you can't sell them on a tax exempt basis. Going forward we will get those bonds sold in one of the next issues, but i wanted to mention the reason for the drop in size.

Mayor Leffingwell: Thank you. And the language I believe is okay because it reads not to exceed 115.

Yes, sir. And they'll just amend the ordinance at some point before you sign it.

Mayor Leffingwell: Right.

Back to page 7, again, this page highlights the principal dates, amounts, and interest rates on the bonds. I just want to highlight on this page a few things. One is three of those series use tax exempt rates. And the series b bonds, as you see, it says federally taxable. Those use what are called build america bonds. I'll go into that in a minute. The other thing I want to focus at the bottom of the page, and in bowled is the tick, true interest cost of each of these series. 322 On the 20-year debt is a

combination of the tax exempt and the taxable. You've got 406 certificates of obligation. They go out 10 years longer than the others. And the last -- the co's, the ppfco's are 239. I believe for a 20-year deal, 322, I think it's the lowest the city has ever paid for bonds. And then page 8, I just want to talk about what build america bonds are. In the stimulus act that was passed in february of this year, it permitted a product called build america bonds for state and local government. A state and local government can issue taxable bonds and receive back from the department of treasury 35% of that interest cost from those bonds. So in effect it's close to tax exempt, but because of where tax exempt rates and taxable rates are today, and it being advantageous to issue the bats. On a blended yield you come out better. I think we did an analysis of build america bonds versus what if you just did the traditional tax exempt bonds. And build america bonds saved the city about seven and a half million dollars over the life, over 20 years. I just wanted to also point out there are -- since inception there have been over \$24 billion of bats issued in the u.s. to date. In texas any local and state issuers in the state of texas account for probably about 17 percent of those. So a lot of your counterparts in the state have issued build america bonds for their projects as well, including some state departments, texas department of transportation, texas public finance thortpt. You've got the city of houston, dallas convention center, and there's many more. That concludes our presentation. We recommend that you approve this transaction, these transactions, I guess, and I'm open for questions.

Mayor Leffingwell: So i heard you say this is the lowest rate you believe that the city has ever had --

I had to ask bill. Bill has been around a lot longer than I have. [Laughter] we believe that 322 -- for a 20-year deal, it has to be one of the lowest rates. That the city has ever received.

Mayor Leffingwell: That's excellent. I also want to thank and congratulate you and newman for your efforts in helping us achieve those great bond ratings that we got from the three rating agencies a couple of weeks ago. Thank you very much.

Cole: Mayor.

Mayor Leffingwell: Councilmember cole.

Cole: Not only would i lik congratulate and newman, but I would like to congratulate leslie broader and her staff for the tremendous work they have done keeping our city on sound financial footing along with the city manager. We all know that these are tough times. But I also want to applaud all of my colleagues, new and old, because I've been on the council now for almost three and a half years, and we have made absolutely no changes to our financial policies, which includes substantial reserves and contingency funds. And I think all of these items come into play when you're looking at a bond rating, even our transfer rates from our utility funds. So I appreciate the work that you've done, and the questions that you've answered about the impact and some of the decisions that we contemplate sometimes. And that we recognize that this time how important it is that we stay the course. And with that I move approval.

Mayor Leffingwell: Motion to approve items 71 through 72 by councilmember cole. Seconded by

councilmember spelman. And I would just like to echo what councilmember cole said. Having been there, it's crystal clear that the city's adherence to its reserve policies and the transfer of policies was key in maintaining these excellent bond ratings.

Spelman: Mayor, that was 70, 71 and 72?

Mayor Leffingwell: Correct. All right. Motion and a second. Is there any further discussion? All in favor say aye?

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of disefn to zero. Hurry it up to the store and sell these things. Without objection, council, at this time we will recess this meeting of the austin city council and call to order the meeting of the mueller local government corporation. chair and board members, I'm the chief financial officer for the city. Agenda item number 2 is related to city council item 69 that you just approved, which authorized the mueller local government corporation to issue \$15 million of contract revenue bonds. This item, item number 2, is to approve the issuance of \$15 million of mueller local government corporation bonds to establish parameters related to the bond sale and approve all related documents. The city council created the mueller local government corporation on DECEMBER 2nd, 2004 TO Issue debt that will be repaid from tax increment collected during the duration of the mueller tif. The final project and financing plans for the mueller project were approved by city council at the recent august 6 meeting. But that will be used to finance public infrastructure project costs. Again, this is a parameter sale. The parameters of a sale include true interest costs of the bonds must not exceed six percent. Maximum maturity for the bonds must not be later than SEPTEMBER 1st, 2029. And the delegated parameter sale expires on november 27th, 2009.

Mayor Leffingwell: Seconded by can councilmember spelman. Is there any discussion?

Spelman: A question, if I can. We're on item number 2. Could you explain to us what the meaning of the roll back or peveto rate is? Mayor no, this is item number --

Mayor Leffingwell: No, this is item number two on the mueller corporation.

Spelman: I just woke up, heard number two and thought what's going on? I still second the motion, though. [Laughter]

Mayor Leffingwell: All right.

Thank you, mr. chair.

Mayor Leffingwell: Any further comments? All in favor say aye? Any opposed? That passes on a vote of six to zero with mayor pro tem martinez off the dais. Hearing no objection, at this time I will adjourn this meeting of the mueller local government corporation and reconvene the meeting of the -- this meeting of

the austin city council. Thank you very much, gentlemen. So without objection, council, I would like to go next to item number 12. And we have quite a number of speakers signed up, 51 to be specific at this point. 51 People waiting to speak. And bea have signed up not -- and 53 have signed up not wishing to speak. And I would suggest, council, that we limit debate in this case, public comment in this case, to 30 minutes per side, 30 minutes for item 12, 30 minutes against item 12. If there's no objection, that's the way we'll proceed. Do I hear any objection? And I would advise people on both sides that using this procedure you're very welcome to arrange the order of your speakers and the time with the stipulation that you only have 30 minutes for your entire presentation. So we're going to be very flexible on this, but at the same time limit it to 30 minutes discussion for each side.

Okay. Mayor and mayor pro tem and council, I'm rodney gonzalez, the acting director for the city's economic growth and redevelopment services office. There it is. I'll be presenting an overview of item 12. My presentation will cover the purpose of today's agenda item, the background for the lease between the city of austin and austin film studios, and key provisions within that lease. I'll then move on to proposing sub lease between the austin film studios and sound check austin. I'll cover the concerns that have been raised about the sublease and I'll talk about the recommendation from ego to city council. Beginning with the purpose of the item, the lease is between the city of austin and -- the primary lease is between the city of austin and austin film studios. And it requires city council approval for subleases where the subtenant will make more than \$50,000 in improvements. The approval of such a lease -- a sublease is conditioned upon negotiated requirement to hire local workers by the subtenant. These two provisions were recently added at city council request to the revised primary lease between the city of austin and the film studios. The city's responsibility is to ensure sublease's conform with permitted uses and that a local hiring requirement is used clud in the subleases in accordance with the primary lease. The austin film studios is requesting city council approval of a sublease with sound check austin in accordance with the primary lease. Later in this presentation, I will cover the specifics of the proposed lease record to permitted uses and local hiring. I wanted to briefly discuss the history of the city's lease to the austin film studios. The original lease was authorized back in october 12th, 2000. The lease is not a chapter 380 economic development agreement. BI, it is a normal -- rather, it was a normal lease agreement for land and facilities. The original lease was negotiated between the aviation department and the austin film studios. It was initially managed by the aviation department and later transferred to egr after the mueller development was finalized to provide for a coordinated management of both adjacent properties. In june 2005 the city council directed the city manager to explore ways to change the lease boundaries to encompass the national guard site. This june the city council approved authorization of a revised lease with the film studios. That revised lease is a long-term lease that expires ON DECEMBER 31st, 2042 AND Provides for the site to be reconfigured to include the national guard site once it becomes available. The city leased to austin film society's is typical. The city normally will lease to nonprofits. The city has at least five other long-term leases to nonprofit organizations. Those include the red cross, the planned parenthood center, the capitol city trap and skeet club, the art of the capital area and texas easter seals. The lease has a number of obligations that must be met by the film studios. The austin film studios must operate manage and maintain the premises. They must submit an annual budget for operating and maintaining the premises. They must conduct programs to support the film industry and promote austin as a favorable venue for films and related productions. They must

identify film, multimeet meade I can't and related industries to use the location for permitted uses. The film studio must submit a report that shows the number of productions and the related budgets, persons imnd and annual payroll, new or start-up businesses incubated and the number of educational and job related programs. Added to the revised lease is that the film studios must construct a south screening wall between the studio and the mueller redevelopment project which abuts the studio. The austin film studios must also adhere to the mueller master covenant and design guidelines and city rules and guidelines. The film studios must obtain proper insurance coverage and they must minimize disturbance to adjacent neighborhoods. The city's lease to the film studios permits certain uses of the studio's complex. Those uses include the production of films, television programs, commercials and multimedia productions and other accessory uses associated with such productions. The uses also include promotion of associated educational development through loans and scholarships. The city's lease to the film studios does provide the authority to sublease. Within that authority the film studios is allowed to develop guidelines for the terms and conditions underwhich subtenants will use and occupy the facilities, including use and occupancy rates. The film studios have the authority to negotiate with subtenants, concerning the construction of various improvements by the subtenants in lieu of all or part of the cash rental payments. The austin film studios has six active subleases, which include chapman leonard, miscellaneous rents, rhino grip, locatio catering, McTRUCKS, AND LONGHORN Rentals. These are long-term leases that range from 17 to -- from seven to 14 years in length. Now moving on to the proposed sublease. This sublease is for stage 4. I've included a map here indicating the location of stage 4 to give you an idea of the location in relation to the studios complex. The proposed sublease is for a five-year initial term with two five-year extension options. Sound check austin will be investing 500,000 to upgrade stage 4. These upgrades will include soundproofing, air conditioning and electrical work. The austin film studios will also be investing 475,000 toward these upgrades. Sound check will have the option to build a 20,000 square foot facility adjacent to stage 4 at its own cost. All of these improvements are subject to city development approvals and as mentioned earlier, the mueller design guidelines as the studios abut mueller. Sound check is allowed certain permitted uses that are encompassed in the primary lease between the city and the film studios. These uses include digital media and multimedia productions and related support services. Examples of sound check uses are full production music rehearsal, behind the scenes television specials, voiceover recording, live scoring, music performance shoots, music videos, webcasting, digital sound track creation, still shoots and the production of video during live performance rehearsal. There is a local hiring requirement in the proposed sublease as a condition. If the -- if sound check hires 50 or more employees, 90 of those employees must be hired from within the austin, round rock metropolitan statistical area. If the number of employees drops below 50, the hiring requirement drops to 75%.

Mayor Leffingwell: Just for clarification, you said if -- if there are 50 or more employees, 90 have to be hired, 90%.

Yes.

These next two slides are to give the viewing audience an idea of what stage 4 looks like from the inside. I apologize for the quality. That was the best shots that we had. There's one photo and then

there's another photo.

There have been concerns raised in the community about this proposed sublease. I want to take this opportunity to speak to those concerns. The first item is that the proposed sublease violates the permitted uses of the city's use to lease to Austin Film Studios. The proposed sublease limits sound check Austin to the uses -- to use the premises for digital media and multimedia productions and support services. I indicated on the earlier slide examples of these uses. The sound check Austin use is consistent with the purposes stated in the City of Austin's lease to the film studios. It is said that it violates the 2006 bond proposition. I've included the bond language in this slide, which is fairly lengthy, and it won't be read. The city's bond counsel was engaged in reviewing the issue and concluded that the bond proposition does not contain provisions whereby the facilities can only be used for the film industry. I need to also mention that the majority of the bond money was used for stages 3 and 5, approximately 530,000 was used for stage 4 upgrades. Those upgrades consisted of a -- upgrades consisted of a sprinkler system, a security system, bathrooms and a hub to benefit the entire studios complex. The city's bond counsel and Tom Knuckles, the city attorney who reviewed the proposed lease with EGRSO reviewed the bond language and the uses provided within the proposed sublease and they found that the sound check uses are consistent with its 2006 bond proposition. -- With the 2006 bond proposition. The next concern raised is that sound check Austin would receive a discounted electric utility rate because the film studios receives a discounted electric utility rate. The film studios forwarded a recent electric bill to me which I forwarded to Austin Energy to determine whether or not the film studios receives a discounted rate. Austin Energy verified that the film studio's rate is eo 6, general service demand, which is a standard commercial rate. And Austin Film Studios has confirmed that sound check Austin will be required to set up its own electric utility account for stage 4. The proposed sublease it's said creates an unfair competition. The film studios has sought an independent verification on this matter. The \$500,000 invested by sound check Austin and the monthly rent are market rents. I've looked at the rent information in the sublease and can confirm the computation of the monthly rent -- computation of the monthly rent, and they are market rents for warehouse space. The Austin Studios does have the authority within the lease to determine terms and conditions, including use and occupancy rates. And they have done so since the lease inception with each of the subtenants previously listed. The other area of concern is that losing stage 4 is a significant loss to film production capacity and mill space. Mill space is an area that is used for set construction. The Austin Film Studios has worked with the Texas Film Commission to identify 18 vacant warehouse properties with similar features to stage 4. The symptom society is assured -- the film society is assured that film production will not be impacted. And the film studios has identified stage 2 to use as mill space and will use other unused areas at the studios complex to be used for mill space. The next area of concern is that a traffic impact analysis needs to be performed for sound check Austin. Sound check Austin will be required to comply with the Mueller traffic impact analysis and the allocated number of trips. The Austin Film Studios complex is part of the approved TIA for the Mueller redevelopment project as it abuts that development. Sound check Austin will be required to submit information on their trips when they fly plane for a building permit -- when they apply for a building permit. And the final concern that I'll be addressing is the sublease violates the supplemental funding agreement provided by Austin Energy and the water utility. The Austin Energy contribution funded the design and construction of cooling units that

serves stages 3 and 5. And the austin water utility contribution funded a new fire line to service the entire studios complex. Additionally there are no provisions in the supplemental funding agreement that address subleases or the use of the studio complex. This takes me to the final slide for this presentation, which is the egrso recommendation. It recommends the proposed sublease for approval for the following reasons. The proposed sublease fits within the permitted uses as outlined in the primary lease between the city of austin and austin film studios. A local hiring requirement is included in the proposed sublease. And the proposed sublease does not violent the 2006 bond proposition, nor the supplemental funding agreement provided by austin energy and the austin water utility. This concludes my presentation. I want to quickly note that representatives from sound check austin and austin film studios are here today as well. Thank you.

Mayor Leffingwell: Questions of staff? Councilmember spelman.

Spelman: A few minutes ago you said that the sublease rents were consistent for warehouse space elsewhere in austin. Did I hear you correctly?

That's according to the nia report for 2009.

Who is that?

It is the national association I believe of industries. I can't remember the acronym offhand. We've got their latest mid 2009 report.

Spelman: Okay. So it's prevailing rents, here's what you ought to be paying if you're looking for warehouse space.

Yes.

Spelman: Is there any reason to believe that this particular warehouse, stage 4, ought to be more or less expensive in rent than the average warehouse that you see listed in nai?

Not to my knowledge. That's why I also showed the pictures so that way you could get an indication of that warehouse, what it looks like or what that stage looks like. It's basically four walls.

Spelman: Basically four walls, unimproved.

Unimproved.

Spelman: You've mentioned sprinklers. What else? It's got sprinklers. It doesn't have an hvac system right now?

No.

Spelman: It has electrical connections, but not a lot of electrical connections?

Yes. And those were to bring up to code.

Spelman: So basically this is plain vanilla warehouse space right now and any I am proomplets are what sound check was propose to go make to it. The improvements that sound check was proposing be made to this warehouse space were proposed to be made by sound check. That was part of the sublease that they're proposing with the film studio.

Yes. Sound check will be investing 500,000 and the film studios will be investing 475,000.

Spelman: So they're going half on it.

Yes.

Spelman: What is the lease -- what is the monthly rent range shown on the nai report for warehouse space in austin?

Monthly range is 25 to 50 cents. The independent verification that rebecca sought showed that it was 25 to 60 cents. I can't remember offhand what other source they used.

Spelman: Okay. So somewhere between 25 and 60 cents per square foot of semi developed space. This is 27,000 square feet.

Uh-huh.

Spelman: So the range then on a monthly basis would be -- I could do the multiplication, whatever you've done already.

The range on what now?

Spelman: Never mind. I'll do the multiplication.

Mayor Leffingwell: Any other questions for staff? We'll receive public comment now. And we'll start with those in favor of item 12. And as I said, you have flexibility, so -- but the time slimented to 30 -- the time is limited to 30 minutes. So -- are you going to again, rebecca?

Afternoon, may and council --

Mayor Leffingwell: Before you start, I've got to find you on here. campbell, I have you showing two people donating time, mark littlefield and jonathan pascoe. There we go. So rebecca, you have nine minutes.

Okay. Thank you. I hope I won't fake that long. As Rodney said, Mayor and Council, we're here today because we're required to go before you for any subleases that involve more than 50,000 in improvements. We've negotiated a deal with Sound Check Austin that we believe helps the City of Austin with economic development as described in the recitals of our lease with you. I'm going to take a minute to read recital c of our lease with you because I think it's important for setting the tone for this conversation. Recital c, landlord is entering into this lease for the public purpose of development and diversification of the state and local economy, elimination of underemployment or unemployment, and the development or expansion of commerce in general and specifically encouraging growth of the local film industry and promoting the City of Austin as a favorable venue in which to make motion pictures and television shows. And tenant is entering into this lease to assist the landlord in accomplishing these public purposes which lessen the burdens of government to the City of Austin. The lease that we bring -- that's the end of the quote. The lease that we bring before you today represents the very best that the Austin Film Society feels that we can do to carry out these purposes for the City of Austin. Throughout this process, we have worked closely with the city staff to answer each and every one of their questions and to provide them with all the information they've requested. Our pro bono lawyers have donated hundreds of hours to help us help the city's economy. We've also engaged the stakeholders. We introduced the owner of Sound Check Austin to the community last October and we posted the news about the potential new tenant on our website in June. We held a public forum for the community and we invited councilmembers for tours. We were instructed to negotiate a percentage of local hires and we did that. We pursued this tenant because it's a win for our organization, our industry and our city. I'm prepared to answer all your questions, but I also have five members of our board of directors who want to speak today. They have attended this meeting as experts in their field, some of which are filmmakers and some are business people. They've taken all day today to be here at this meeting so that you can be certain that the Austin Film Society board of directors is fully behind this. Of course I'm fully invested with the authority to proceed with this. I'm just going to drill down on a couple of points. Why is getting this sublease such a priority for this organization? Why is it a win-win? Because it brings in income for the studios and it creates jobs and digital media. And they're good jobs. Creative economy jobs are faster growing, higher paying and have less outsourcing than other jobs. Some have wondered why money is a problem for Austin Film Society when we only have to pay rent of \$100 a year. Forgive me if I'm stating the obvious, but we have 20 acres that we have on do operation and management expenses on, including staff and security and utilities. And we also have capital improvements, major repairs and upgrades. And I'll give you one example. As soon as Catellus begins to develop the street to our south, we have to pay for that screening wall at a minimum of \$170,000. Meanwhile, the film industry goes up and down. It has boom years and bust years. Sound Check will be a steady customer for as many as 15 years with predictable rent year in and year out. They will also refer clients for short shoots to help with those in between days when the sound stages are empty. The question has been asked why won't the film society publish the rental terms of the lease. Obviously we've indicated that it's \$500,000 down and that it's within the range of 25 to 60 per square foot per year. If we release the specific numbers, it will set a precedent that will tie the film society's hands through 2042. In 2012 we're going to occupy the National Guard building. That building represents a once in a generation opportunity for the City of Austin to develop a digital arts hub that will make us a world class facility. Our architect has been a facilities assessment. It's going to cost 2 million to occupy and be able to rent that building. We'll be doing a lot of

fund-raising. We figure government grants, maybe some private donations, and also loans and also convincing people to put in a lot of money up front for their space. Hopefully we'll get some long-term tenants. We'll get the most -- long-term tenants. We'll get the most rents from some tenants and pass on savings to others. We can't have to vet every single one of those subleases through a process like this. However, this is what we've done to assure you that we are not using our nominal rent and our ad valorem exemption to unfairly subsidize an out of town business. Yesterday I called four real estate consultants and was referred -- I found eventually one that took my call, not knowing who I was, and was willing to drop what he was doing and go down and make an appraisal. The company is called live oak goddess man. The director of leasing, bryan, took my call. I e-mailed him the sublease on a confidential basis. He read it, he asked me questions. He went and inspected building 4 and then he sent me a letter which I have shared with city staff and city council and which i have copies of and would be pleased to make them part of the public record in whatever the public way s.

Mayor Leffingwell: Just give a copy to the clerk.

I'm going to read just three sentences for the public record. According to nai austin as a source report, market rent for this type of product is 25 to 60 per square foot per month. Even if sound check austin benefits from until knot having to pay ad valorem taxes, that does not take this deal below market. I want to congratulate you on this achievement. This is a lease we would love to have in one of our buildings. The rest of it is available. Now, if for any reason tcad thinks it should lose its exemption, I want to assure you that our sublease stipulates that afs will pay these taxes. It was a serious concern of ours when negotiating the lease. I'm going to close by putting something on the record so that it will be there in perpetuity. And it relates to the fact that I've been the executive director of this organization for 11 years and the film society has been a driving force for the economy in austin for 24 years. And we started austin studios. It wouldn't exist without us. And we want to make a commitment. Our commitment is never to use our ad valorem exemption or our low rent to provide an unfair advantage to harm an austin-based business.

Mayor Leffingwell: Thank you. Questions? Councilmember spelman.

Spelman: I want to be sure I understand you, rebecca. So even if tcad decides, which I think it is very likely to do, that a for profit sublessor is -- owes property taxes, that you will set the lease up in such a way that they will not pay the taxes, but the austin film society will pay the taxes.

Yes.

Spelman: And therefore the city of austin will not be liable for those taxes because you will be liable. Is that proper?

Yes. May I say something?

Spelman: Sure.

Just as a reminder, the primary lease authorizes afs to negotiate the sublease rates. The city is aware that we're exempt as it stands now from ad valorem taxes. And that exemption is a tool in our economic development tool box. So we can get market rate rent and we can put the funds back into the property or we can use those advantages to entice customers. So again, I want to be clear that in this case we are getting market rate rent and putting funds back into the property.

Spelman: Okay. But you may not actually have the advantage of non-property tax status in this particular stage because you're dealing with a for profit entity.

Right. We're aware of that. Our pro bono legal counsel has had law clerks to research it and be prepared to help us handle all of that if it comes.

Spelman: Thank you.

Mayor Leffingwell: Councilmember shade. I have a question. You've been in the business of leasing space. It's been widely described even just this week in the news that you currently have a tenant in stage 4 that's paying I think \$8,500 a month, which is up until -- I guess it's a four month lease I think is what i read. But these are for-profit entities that are pretty regularly leasing that space. So I guess I'm not really clear on what makes this --

talking about stage 4 and the last couple of years, the amount of money that it's brought in. In the last three years the total amount of money that it's brought in is the same as one year of what sound check will be paying us after we pay off -- after we pay our loan. It's really not brought in very much money. It's not a money maker.

Shade: I will say this to those who are listening. In seeing the confidential lease, I can substantiate that it is a number that is significantly higher than \$8,500 a month. And it does accelerate with each year going forward. And I was trying to extrapolate if there was a property tax assessment figured into that number, i think it would still be pretty close to equivalent because of the amount that is in the lease. I mean, it is significantly higher than 8500 a month. But I did pull up your 990 forms from past years just to look and see what kind of income you usually get from rental fees and it really has fluctuated. I guess what I'm curious about is in your plan how much -- what -- do you have a sense for what your best year for rental fees has been? Again, the short-term leases and the leases that you do with the other stages besides stage 4?

We had very good years in '04 and '05 and so we've had -- we did have very good years in '04 and '05 and that gave us a cushion of about six months reserve and in the last two years we've gone through the reserve. That's the up and down nature of things.

Shade: I was only able to pull off a handful, but it fluctuated from 190,000 in 2006 to less than 80,000 in the most recent filing that you made. So it has fluctuated quite a bit. And I guess what I noted is that in -- in this particular lease regardless of who it would be, having a steady client would be a big difference for

the organization.

Yes. It would provide the predictability and the steady income as well as the referrals. And that balanced with the up and down nature of the industry, you come to work one day and it's wall to wall cars and then the next day it's a ghost town. So the two things will balance each other out and make for a diversified income base. And I think that's the idea is to keep the organization healthy for the long haul.

Shade: What is it looking like for the other I know stage 4 is what it is, but what about the ones that are more fully built out and what are they specifically used for?

That's the same question my board always asks me, what is it looking like? We can usually look ahead four months and it looks like those other stages will be full for the next four months. After that it's again a matter of speculation. You hear so and so is calling and maybe they'll be coming and until they actually put the money down, you can never count on it.

Mayor Leffingwell: Councilmember riley. First I want to advise you that I said we had 30 minutes. I have the time paused during the questions from councilmembers, so don't worry about that.

Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: I wanted to follow up on that last question about capacity. Because what I've heard from a few folks in the film community is that yes, there was some downtime over the past few years because Texas really didn't have a very serious incentive proposal, didn't have a serious package to offer, but now as a result of recently passed legislation, we are in a more competitive position today so that the outlook is actually much brighter for the next few years in terms of support for film in Texas. So I have heard some concerns about capacity going forward. And can you just help me understand exactly how much space we're talking about? If this studio is taken offline for sound check, how much other studio space will be available in the next few years for film production?

Okay. Councilmember riley, I would say you have to also distinguish between quantity and quality of space, so we will have two a class stages equivalent to anything that's the best that you can find in Hollywood. Those two will be available. And then what we call stage 2, which is also a mill space with some offices, will be available. I do want to let you know that a couple of the board members that are going to speak will give you a little bit more of a flavor going to the question that you're asking, but I'm again happy to get into it now as well.

Riley: Basically --

two a class stages and then the support stage. And then there's the red building, which is the production office. And then stage 1 is going to be used for the long-term tenants, Chapman, Leonard and so forth, until 2012. Then they will pull over into the national guard building. Then we'll have a total of seven

stages.

Riley: As of when? When will that start?

2012. September 30th, 2012.

Riley: As of that point we'll have how many stages?

There will be seven altogether. So stage 1 and 2 will be the unimproved mill style support stages. 3 And 5 will be the a class hollywood stages. 4 Would be the sound check stages with the diversified activities. 6 Would be chapman leonard and 7 would be another unimproved mill style space. That will be a really good mixture because we'll -- it's always been the red building, which is the production office, can only service one tenant at the time. And then with the additional office space that we'll have in the national guard building, we'll have a really good setup for two to three huge feature films.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you. I really appreciate -- i know this has been a really tough issue for the community and I really appreciate you and everybody else and the input that you've been providing. And I think one of the things that has certainly been driving a lot of the discussion is we just want to make sure that all of the information is out on the table as clear as can be. I want to reiterate and make sure I understand, when we're talking about the rent rates being a market rate, that's really taking into account not only their monthly, but also the fact that they're putting up this 500,000 up front. Is that correct?

That's correct.

Morrison: Okay. And the other thing is I've been trying to grapple with the whole property tax thing and that they won't be paying property tax, if it's assessed, you would be paying the property tax. Do we have any idea about what that might be on that size structure?

I did do some research, but it's me speculating. I can tell you what i researched if it would be helpful.

Morrison: Sure.

Since music labs has been the local business that's been so concerned about the potential -- what they are afraid of the unfair edge, what I did was I looked at elmo and I looked at all the five taxing entities that hit them and what their rates are and divided it into the square feet and 15 a year per square foot. So that would be the equivalent for stage 4 would be like \$32,000 a year.

Morrison: Okay. We did get an e-mail from you yesterday. This might already have been -- might no longer be the understanding. You said we're not passing through the property exemption until the first renewal term, and we're passing a negligible amount through --

that was yesterday when i wasn't as good of a real estate developer as I am today. And I've been set straight by the best in the industry. I was using the nai austin r and d flex after he came out and looked at it, he said this -- he said is this it? And he said this is warehouse manufacturing. And so now with my new knowledge today of 25 to 60, it's market rate all the way.

Morrison: Okay. And then could you also explain a little bit about the exclusivity clause? I'm not saying that right.

Yes. And I apologize to anyone in the community that got confused by my quick one line thing that I had put on the website a couple of months ago because it's more complicated. I think that there's a concern that if any business out there that has microphones, amps, guitars, cameras for rent, that somehow sound check is going to cre an exclusivity where they can't rent either within sound check or on the property. And that's not the case at all. Anybody can rent anything to or from anybody at austin studios, the same way that like chapman leonard is our subtenant. But -- chapman leonard is almost peerless, but there are other camera movement companies and they could come on to austin studios as well. I hope that helps.

Morrison: That's certainly my understanding of the lease, which i understand you consider proprietary. And the other question that's arisen is that we're -- the austin film studios provides a budget to the city every year, and you also consider that proprietary, is that correct?

No. I am behind. I was supposed to have gotten it to you all 10 days before the close of the fiscal year, but we've only got a draft version and i haven't gotten it approved by the board. So I felt like if I released it and it was published in the paper, then the board would say we didn't approve this, so I'm keeping it pro pry terry until the board aproves it on SEPTEMBER 21st. And then it's totally public.

Okay.

Absolutely.

Morrison: Has it been public -- has there ever been an issue about that in the past?

Once it's approved by the board, it's totally public. And nobody has ever asked for it before.

Morrison: All right. Thank you very much. Again, I just want to thank everybody for their interest in this and I think our attempt here is really to get as much information out as possible. Thank you.

Mayor Leffingwell: Councilmember shade.

Shade: Just to clarify something. As a public not for profit, your books are open, and i was able to pull the last couple of years of their reports and find out how much income they're generating in every one of these categories. So I think that it is unlike a private company or anything -- I mean, people may not be looking at 990 forms from the i.r.s. Like -- or annual reports and so forth, but it is very public. It has to

be. It's the law.

Mayor Leffingwell: I didn't even know what they were, councilmember.

Shade: I realized i used an acronym, but it's documents and they're all posted online.

(Indiscernible).

Mayor Leffingwell: Anything else? Councilmember cole.

Cole: I have a quick legal question. Just because we started down this road of suggesting what's open and what's not if these private nonprofits are subject to the open meetings act. And their decisions to not make something open or not make it, that that's somehow legal or illegal. I think it would be good if we had a brief explanation about the open meetings a and the fact that the options that people have once information is requested. Open records, yes.

Mayor and council, kerry grace with the law department. The business entity type -- of the type that councilmember shade has mentioned is a different issue than the public information act and the rules and laws that govern public access to documents in a governmental body's position. That is a complicating factor, I think, but when any third party, no matter if it's business association type asserts that information is proprietary, the public information act requires that we honor that. In other words, the city doesn't have a position on the public's right to the access of the information, but --

Cole: Hold on. I want to be clear of that very point there because i think a lot of times there's confusion in the public about the point of we don't release information and that we have a business that is doing business with us so that there is a state law that says if that business says no, you cannot release that information because it's proprietary, meaning that it is related to my business and legally you can't disclose it, then legally we are not allowed to disclose it.

That's right. We have no discretion unless and until we have followed the proper process. And that includes giving that business the opportunity to make an argument to the texas attorney general that the information is somehow proprietary to that company, and the burden is on that third-party to convince the attorney general. We're essentially the gate keeper at that level. And after about a 45 day period after the attorney general has reviewed the third party's arguments, based on the third-party's arguments, it directs us, the city, to release or not depending on the suitability of the third-party's arguments. So again, we're just sort of the gate keeper. The law requires that we give them that opportunity, we don't -- we have no opinion about its public availability one way or the other.

Cole: Again so we're clear, which somebody says I've given you information, but you can't give that information to the public, then under the law we can't give that information to the public, but then it's sort of their problem to go to the attorney general and follow those legal procedures to get a determination about whether or not it is or is not public and bring that information back to us.

That's exactly right. And it's a standard operating practice for us. It does come up in procurements a lot. It's -- it occurs routinely. And this isn't an unusual circumstance really. The attorney general essentially acts in a quasi judicial role and makes the decision in an objective way about the public nature or confidentiality of the information.

Cole: But the attorney general is making that decision, we're not making it, we're not weighing in on it, we're just doing what the law says.

That's exactly right. We're just the gate keeper.

Cole: Okay. Thank you.

Mayor Leffingwell: The next speaker is kirsten McMURRAY. Kirsten? And have you signed up for six minutes with time donated by andrea johnson. Okay. You have six minutes.

Hi. I'M kirsten McMurray, I'm richard linklater's assistant. He's not able to be here today, so I'm delivering this statement on his behalf. First off let me apologize for not being here today. I'm in new york for a meeting that could only happen this afternoon. It's the least fun aspect of my job, going literally around the world beg fog money. If I'm lucky to get financing, trying to convince them to let me base out of austin. As the guy that was there from the absolute beginning of the film society in 1985 and the austin studios in 1999, I feel compelled to speak up and give my perspective at this unfortunately volatile moment. Given our track record and our missi, the single most unfortunate thought that's been released into the local atmosphere is that the film society wants to either take away your job or doesn't care about your job or because we're willing to take on one longer term tenant that we're going to see less films in austin because of it. It's a nart enough thought and a valid discussion to have. As a fairly skeptical person myself I wasn't that wild about the notion of a music industry entity taking over one of my stages. I'm a film person and I like many here today wanted that for us only. But instead of going on the offensive I did a lot of listening, saw a lot of spreadsheets, participated in numerous board members and executive committee meetings and in time I came around to seeing the opportunities and long-term advantages of sound check being an anchor tenant in stage 4. It's classic management at work, weighing all the options, seeing as many angles as possible, putting emotions aside and doing what we responsibly feel is right in the big picture for the film society and the entire city of austin. Who has entrusted us from the inception to do its best with our facility. This wasn't some impulsive decision that was arrived at without a thorough vetting. The film society is currently being run by the best staff we've ever had in your history and is being overseen by the most thoughtful and active board of directors we've ever had. The bottom line, and we do have actual bottom lines, is this is the best choice and opportunity for austin and the austin studios given the larger economic picture and current climate. In nine years austin has never lost a film because the studios have been overbooked. When people decide to shoot in austin, it is often for personal reasons, ie, a star or director would rather be here, or that austin is better for any number of reasons. They tend to make it work, back to renting an additional warehouse space maybe, but not likely a deal killer. Film productions are extremely adaptable. The sad fact is that stage 4 sat empty and generated no income for 19 of the last 24 months. Another sad fact is that even though we all work to get our incentives package increased, it's still less than some other

states. We're back in the realm of discussion at least, but it's so hard to gauge what that means. The industry is so bad right now, there's no baseline for accurate comparison. There's been this extreme downturn in our industry and that was happening before the larger economic problem, which has of course only compounded the problem. I'm in a position to analyze and comment on this because I have a foot in both worlds. For the last nine months I've been on this issue about the best use of stage 4, I've also been out there trying to get films off the ground. All I can say is again things are bad, the worst I've seen in almost 20 years. I had a film fully financed but couldn't make it this summer because we couldn't find a distributor. Unthinkable even 18 months ago. I talked to friends in la and they tell me how little is going on, how even some of the most successful people in our industry are struggling to get films made. Interestingly one studio friend told me there was nothing happening on the sound stages except bands rehearsing for upcoming tours. I'm going to detail to illustrate how bad things are right now. We all thought that our only problem locally was passing the incentives. I thought this too, but I'm now trying to convey my feeling that it's now much bigger than that and this public squabbling going on here isn't help to go solve in I of our problems, only serving to divide us what we should be coming together. I advise everyone to not expect much in the immediate future. In the meantime, let the film society do what it's always done, which is support and nourish the local film culture and do what's right for austin and the local film community. Thank you and I hope we're not back in front of the council with issues we could have worked out our self. Richard really wants you to vote yes. Thank you. [Applause]

Mayor Leffingwell: Thank you. The next speaker is janette scott.

Hi. Thank you. Is this good? Thank you for having me here. My name is janette scott. I am the facilities chair on the board of the austin film society. I've also worked as an art director and set decorator in the film business in texas for over 20 years. I won't say how much over. I've seen a lot of changes and I can tell you -- I can rick's sentiment that these are lean times indeed for film. This year for the first time in 14 years I was forced to leave my family and my home and go out of state to work. I spent four months in oklahoma living in a comfort inn working on a movie with a story that was set in texas. The film scouted austin, loved it, but went to oklahoma. Our facilities there I can say our office was an abandoned department store, which had very bad heating and later very bad air conditioning. Very bad plumbing. We frequently had to go to the blue bell is a alone to go to the bathroom. Our mill, which was the equivalent of stage 4, was an abandoned fire station that was filled with pigeon droppings. I say this to emphasize the fact and -- worst of all, we were surrounded by sooner fans. [Laughter] that's oklahoma university. So I say this to emphasize that the decision to go to oklahoma with a film set in texas had nothing to do with facilities. And that is not whases driving people's decisions of where to make their movies. It had everything to do with incentives. Oklahoma had a shiny new incentive package almost double ours. We love our new incentive package, but it is still way below what a lot of other places are offering. Since I got back I've had two calls to go and work in des moines, iowa, which i had to go look up on the map. They just pass add huge new incentive program and films are flocking there. They have no crew, they have no sound stages. They have no facilities, but they're going there for the money. That is the first thing that's driving decisions. The second thing is locations, the third is crew base. And then they look at facilities. But if there are no facilities, they will find a way to make it work. When the alamo came to dripping springs, they put all their facilities on that ranch. They built a yurt village for their mill and support systems and brought in mobile homes. So all saying is that the loss of this one empty stage

is not going to make our break our business, our jobs. If I thought it was, I would be the first person crying for it because my lively wood depends on it too. I really think that the incentive thing is going to even out in the long run. I think that things are going to change and some of these programs are not sustainable. In the meantime, if the film society can remain fiscally stable, we can have a stable income, we will be able to take over the national guard facility, gain back the space that we lost in stage 4, move the tenants out of stage 1, thus increasing our stage space, and hopefully when things settle down and the business comes back and increases, we will be in an even better position to move forward with more space and more facilities. Thank you.

Mayor Leffingwell: Next speaker is will meredith.

Good afternoon, mayor leffingwell, mayor pro tem and members of austin city council. My name is will meredith and I stand before you today as a vested citizen of austin as well as a member of the austin film society's board of directors. I also serve on the boards of two other local charitable organizations, open door preschool and mfi foundation. I stand before you today because I am requesting you to support the creation of sound check austin at austin studios. As I constitutionally believe its creation will fill gaps in the city of austin's creative arts economic engine. 10 Months ago in october of 2008, I accompanied the sound check austin team to this very building and discussed the opportunity before you today with mayor wynn, various councilmembers as well as rodney gonzalez and jim butt letter. Our conversations centered on the ability of the partnership of sound check nashville, the austin film society and the city of austin via the austin studios to address needs in austin's economic engines of our film and digital media industry. Since october of 2008 a lot has happened with our country. We have entered a severe recession that affected all of us in various ways. Despite this recession our creative arts industry must be something that the city of austin continues to nurture and seeks to capitalize upon. Tasks that were performed by vendors from oklahoma and louisiana are opportunities to capitalize financially for our city that we must attend to. We need to be mindful of our economic gaps, which the creation of sound check austin can help us accomplish. It is because of these reasons that I hope you support the creation of sound check austin and make a vote for embracing the challenges of the creative arts economic engines in our city. Thank you for your time in allowing me to speak this afternoon.

Janet pearson. And dwight adair. Dwight, are you here? So you have to be present in the room to donate time. You can plan on three minutes, but we are flexible here depending on how you want to present your case.

I've been involved in independent film since the 19 70's. The unifying thread is I've been a steadfast champion for independent film and filmmakers nationally. For the last five years I've had a front row seat to the inner workings of afs and austin studios. Afs serves many constituencies with widely agendas. Yet they still find a way to serve them all while growing film in austin. Afs is the only organization that reaches into every arm of the film landscape. Consider the widely divergent activities. Exhibiting great movies from around the world, cultivating film appreciation, supporting independent filmmakers financially and providing a working support network, teaching film literacy and tools in underservices high schools, bringing press attention, not to mention talent and industry awareness to austin through its

texas film hall of fame and red carpet premieres. Advocating on behalf of texas film incentives through both direct representation on txmpa and background support, and also finally managing austin studios with its complicated array of full time tenants, production office space, sound stages, and a feast or famine production environment. Film in austin doesn't just mean one thing. Afs has successfully managed over many years and with limited means to benefit this great array. I'm representing the afs board which voted to proceed with this deal when I ask you to vote yes. But I'm also the mother of a local (indiscernible) member. I know all too well the tough particulars of the situation and it was as i was preparing it that i realized she got her start in a music video, ironically. I understand that some of the production community feel the loss of stage 4, which when not empty is used for mill and storage. I understand the economic and attraction to future film making, but this is about the austin film society making a sound fiscal decision while also improving its assets, which in turn benefit everyone in the austin film community. This is a means to an enhance the future when the national guard building comes on line and afs can have multiproduction and other support services. It's not solely about financial viability. Although that's paramount. In the short-term, sound check will attract talent which always attracts more talent. At the most talented levels, there's a lot of love between film and music.

Mayor Leffingwell: Mark english. Clark walker.

Thank you, mayor, members of city council. My name is clark walker. I'm a writer, producer, director, I work in independent and also studio financed films here in austin I've lived over 20 years. I'm here to support the resolution and helped my voice to others who are grateful that the austin if I am society has prayed to the people in the industry and the spirit of this city. I say 20 years plus but my business card reads migrant film worker. I've lived and work on pictures in new york, portland, san francisco, paris, vienna, canada, mexico, so many lasts I can't enlist. Some of these productions I've been involved in as a direct participant or witness to the ultimate decision-making of where to bring a film. One of the issues that seemed to be involved and concerns is that if stage 4 is not available, films won't come to austin. I can say and echo what jenna scott was saying, that that's not the main decision. The main decision austin has to come down to actors that involve a bigger discussion, the vision. You want to go a place that is so-called film friendly when you are trying to make a movie and you have a lot of challenges, everything from legal to logistics, challenges coming to you. When it comes down to it, though, people like to come make movies in austin because of organizations like and specifically the austin film society and what they have given to this community so i hope you support the resolution and I thank you for your time.

Mayor Leffingwell: Thank you. [Applause]

Mayor Leffingwell: Those are all the speakers on your list. There are two more who are not on your list but signed up to speak. Tony shum. Tony shum. I don't see him here. Brian -- signed up as -- excuse me. He signed up as neutral. That's all the speakers you have on your list and you do have a few minutes remaining if you have anything more to add. Thank you. We'll go to those speaking against item 12. You've given me a list here that I'm going to operate from. The first speaker is gary akeny. Gary akeny with time donated from shanna edwards. So we'll set the time for 30 minutes. You can plan on

six.

Okay. I don't have much to say. I e-mailed all of you this morning a copy of a letter i received from the city of austin. It was in regards to an open records request. and submitted a public information request to city of austin for a copy of the sublease between sound check and the film society. My request is being reviewed by the attorney general as it contains information that has been deemed proprietary. The fact that a ruling from the attorney general is still pending should be reason enough to postpone a decision on item 12. Thank you.

Mayor Leffingwell: Thank you, gary. The next speaker is danny cabella. And danny has time donated from david nordike. And alex brown. Alex brown. Jeremy briones and taylor smith. Okay, so you have looks like 12 minutes, and as I said, we'll be flexible about that.

Thank you for allowing me to speak. I won't use all that time because there's several people that would like to speak here, but I'll try to be to the point and as brief as I can be. I'm the president of a company called music lab, incorporated. We provide very similar services to sound check here in austin and have done so for the past 18 years. Our position is one that's based on fairness. Fairness to local music business and fairness to all austin businesses really. We are certainly not opposed to competition. We have supported the a.f.s. Over the years continually and still do. It's only this particular deal that we've got an issue with. Sound check looks like they have a great business model. But we just want to make sure that things are fair, fair to the other people that they will be competing with that make our livelihoods here and that's where we come from. I think the no property taxes, and to be quite honest with you, I really had no idea that this might be added to the property taxes until today. That has never been brought up. Isn't that what you suggested earlier? I've never heard that. That's never been mentioned. So that is new information. My question on that is -- is there a time line, is there an idea of when something like that would happen? And that's a question I would pose to you councilmembers. Just so the business community has an idea of where we're headed here. That's a pretty valuable city as set out there. There's budget shortfalls and other things happening in this city. When can the city benefit from taxation at that site? Can somebody --

Mayor Leffingwell: I can answer the question. We just approved a 30-year lease on the property to a.f.s.

Right. But does that include property taxes or is that tax exempt for 30 years?

Mayor Leffingwell: Well, the property will be owned by the city for 30 years so it would be tax exempt unless somebody has a different idea from that.

Okay. I guess I misunderstood. Councilmember spelman, I guess I misunderstood what you had asked rebecca campbell earlier in regards to if at some point property taxes --

Spelman: It's my understanding, sir, that if a for-profit company leases space from a city or from a nonprofit, which would ordinarily not itself be susceptible but property taxation, then these assessment districts may choose to -- and generally speaking will choose to dunn the for-profit for property taxes. It's

my understanding if tcad dedes sound check is taxable, they are going to hit sound check up for taxes. it appears has made a deal that sound check will not be liable for taxes, a.f.s. Will be paying the taxes. If tcad decides somebody is liable for taxes on stage 4 is, then we would be receiving the taxes upon that date when sound check moves in and becomes liable. We would be receiving the taxes on december 31 like everybody else does.

Okay, that is the way i understood it. Is that the way you understand it, mayor?

Mayor Leffingwell: Yeah, that's fine. And as long as you are asking questions to the councilmembers, your time is running.

Okay, well, I needed clarity on that. That was important.

Tcad is a separate entity.

Well, absolutely, but the topic was brought up and i needed clarity on it.

And I think the point was that if that does happen to has negotiated they will be responsible for paying it which is why they factored that into the price that they are charging [inaudible] over the years. We don't drive whether or not tcad is going to make that decision is my understanding.

Okay. Yeah, I was just looking for clarity. I honestly did not know this was part of the deal. That's new to me. As far as comparing rental rates, you know, I think an appraisal should be done at the site instead of comparing empty warehouse spaces off st. Elmo road, burleson, cameron, even comparing music lab rental property taxes I think is -- it's not quite as desirable of area. Seems to me a better comparison would be cotallas commercial development that exists at the site. I think that would give a more realistic idea of what the property taxes should be on that site. So when you're arriving at a fair market value, it seems that the comparison should be done -- you know, land holds different values in different parts of town. So it seems that just the land value alone should be compared to the development that's going on in that particular area as an appropriate comparison. Another question I had, and i don't want to go too long or I'm going to use up all the time but site plan approving and permitting, is that the same process? Okay. Thank you. I think part of also the questions that some of us in the local business community have regarding this issue is there hasn't really been an openness or disclosure or dialogue. I've actually learned more today than I have in two months about this thing. It seems that some of the clouds and the big gaps in 21 cents to 60 cents, why can't we just come out and say what it is? I'm confused on that. I heard you guys discuss two other leases earlier today where point blank the rates were announced and cut and it was obvious.

Mayor Leffingwell: The city is not a party to these leases like we were to the other two you are referring to. So it's a lease -- it's an agreement between two parties not including the city.

Okay. And that is because it's a nonprofit holding the lease?

Mayor Leffingwell: Well, it would generally apply between any two parties that the city is not a part of. I mean the city is not a party to these leases. They are deemed to be proprietary by the parties themselves. The information has been furnished to councilmembers in those leases, but it has not been released and the city has no authority to release it because we're not a part of it. But we do know what's in it.

Okay.

Mayor Leffingwell: Councilmember shade.

Shade: It's analogous to if we do business or have a contract with some other entity, let's say it was music labs and then you had a deal with somebody else. I mean you wouldn't necessarily share the deal that you have with whoever you are contracting with. We have a relationship with has a relationship that's independent of our relationship. They are -- so their relationship with sound check and their lease is proprietary just like your lease with one of your tenants would be proprietary.

Right, but since it's city property, I guess you feel that there's adequate oversight in making sure --

Shade: That's why we did ask to see it but we're not at liberty to release it. And I can tell you that the lease that I saw shows a substantially higher rate than the \$8,500 that they are currently in the newspaper talking about for the rent on the four-month deal with the rodriguez film and it is definitely within what you've heard in terms of market rates.

Yeah, I understand that. I would once again go back to the market rate should be determined by the market surrounding that area though and not just warehouse numbers thrown out from around the city in light industrial warehouse uses. I think that's a fair question, you know. Appraisals, there's got to be other appraisals in that area. There's got to be other rates. There's been all kinds of development.

Mayor Leffingwell: We're using up all your time with this colloquy, but if that's the way you want to do it, that's fine. There has been an estimate of what the fair market value is, a certified estimate by a third party that austin film studios hired to do that. You would be welcome to do the same thing, however, this is a third party estimate with what the fair market value rental of that property is and it falls within acceptable parameters.

And what about rates established by the city of austin for other properties out there for their snacks.

Mayor Leffingwell: We don't establish rates. Councilmember shade.

Shade: The reason I keep bringing up the one that was in the newspaper, I'm not sure why it was publicized, but that four-month lease, you would assume that that would be the exact space that you are talking about so I took that as also market data. I mean that's a lease today for stage 4. If I use that as a number as well.

Yeah, I understand that. But I can tell you -- I can tell you that the rest of us if our business were to dive, they wouldn't change our property tax rates. You know, based on income. My rates have never been based on our income.

Shade: You are talking about the rent they are getting for the -- for the space, not property tax, the actual rent on the space right now, so that was another data opponent for me to look at it just pointing that out. It's the actual exact space. If they were going to rent that space in december and, you know, for the next four months, that's what they are renting it for.

Okay. The final point that I would just like to make is all of the discussion here, which i appreciate all the time you've all given us, it's been wonderful and it has been enlightening. The main ideas that we were pushing for was just oversight, openness, awareness. The only way to look at these records I guess is to go to the attorney general, which has been suggested, I guess.

Mayor Leffingwell: Okay.

Thank you for your time.

Mayor Leffingwell: Thank you. Councilmember morrison.

Morrison: I did just want i know we had a conversation and you had questions about the site plan and permitting and i did ask staff and got an answer but that yes, they must comply with development permitting process and pay standard fees and they have to comply with the design guidelines. So that is all going to be folded into the work that sound check would do.

Okay. Thank you.

Mayor Leffingwell: Next speaker mayor pro tem martinez.

Martinez: There was another point made our meeting about the energy rates being a cheaper energy rate and it's not. They are going to be charged the same commercial rate.

[Inaudible]

Martinez: Okay. Thanks.

Mayor Leffingwell: Next speaker is joseph cabella, and joseph, you have time donated from benjamin gonzalez, jo left in charvette, not here, ross glaze. Ross is here. William edwards. William is here. So joseph, you have up to 12 minutes, and just for your information, we have 19 minutes remaining.

Thank you mayor and councilmembers for hearing this. I'm going to be very brief because there's plenty of people that want to speak. We weren't expecting a 30-minute limit. One thing, are you willing to review the budget numbers from this last year prior to voting on this since a lot of this has to do with

them not being able to satisfy they are making money on stage 4. The numbers haven't been released. I think it might be beneficial to wait to see those numbers before you vote on this. So I would like for you to take that into consideration. Number 2, this really hits home and should really kind of shed a lot of light on this. Everyone made very good statements today and it made a lot of sense. In the statesman this morning, how many of y'all, if it's okay to ask, saw the statesman article this morning? Okay. The very first line ben jumper says he's coming to austin regardless of this deal or not. There is no net loss to this city by saying no to this deal. There is actually a net gain. Now you get the taxes from this company. Not through a.f.s. They are going to find another site. There's tons of open warehouse spaces in this town. At his own admission, he's coming here. And we welcome that. We have no problem with competition. But what we don't welcome is going to pay our property taxes? That's still unfair. And please look at that before you vote on this. They're coming anyway. The net gain for this city is to say no to this. That's all I have. Thank you for your consideration. [Applause]

Mayor Leffingwell: Greg c limit ngemsmith. Three minutes.

Good afternoon. My name is greg clingensmith. radio-television film grad. I've been involved professionally in various facets of professional audio in austin since 1976. I'm also a neighbor to the mueller development site. I've lived in the windsor park neighborhood since 1981. My home is a couple blocks north of bartholomew park which is right across the street from the site. In opening I would like to suggest that if there had been some candor displaced by the makers of the sublease much of the this issue could have been avoided. This may be the only positive lesson we leave with here today concerning this issue. I cannot support the sublease at issue today for a number of reasons. All centered around fairness and proposed use of the facility. I voted for the prop 4 improvements, but I never imagined the site would be used as a music rehearsal facility rather than its intended purpose of a flick production facility. -- Film production facility. I work in this business and i believe that sound check would be welcomed as a valuable addition to the area's vibrant music business scene if it were to compete on a level playing field. But there are too many issues unanswered about this transaction for me to support sound check leasing at the a.f.s. mueller site. I do have a couple of questions, if I may, about the lease. It appears that in order for the lease to approximate market rate rent that the sound check \$500,000 leasehold improvement contribution is being amortized into that rate over some period of time. Is there any clarification as to that?

Mayor Leffingwell: Councilmember morrison.

Morrison: Maybe we should person answer that. gonzalez is the one that brought that up moore.

Morrison: I asked specifically if we were including that 500,000 in the -- in the computation of market rate and she said yes.

Okay. 's \$475,000 is in there in the form of a lease -- yes. Not some of the 475 and 500 represents a \$975,000.

Morrison: Excuse me. You asked the question and i want to make sure you understand the information

that I have that only the 500,000, not the 475 is included in the computation of the market rate. Of the rate and maybe gonzalez could take over from here.

Well, the 475 is implicit because it's a loan that the a.f.s. has to service. So my statement is that there's a \$975,000 leasehold improvement being done to an empty metal shed out there, an empty medal shed that has generated \$8,500 a month as is where is. Okay? And is the -- you subtract that 975 out that's amortized over whatever period, five years for the 500, 10 years for the 475, you're left with pennies a square foot a month. I don't have the document in front of me. I'd appreciate knowing who the legal entity is holding the lease. The occupant will obviously be subletting as the eight other entities in that building are. Are you at liberty to say who the actual recipient of the sublease from the a.f.s. is?

Mayor Leffingwell: I'm going to put you on pause here just for a second. The purpose of getting citizen input during these kinds of hearings is for us to hear from you.

All right.

Mayor Leffingwell: If you have questions to be asked, that should be asked in a different format. If you have those questions, we'll be glad to put you together with the appropriate staff members to get an answer to those questions, but your testimony should be statements, your statements to us.

All right. So -- great. [One moment please]

Mayor Leffingwell: The next speaker is kenneth rector. Kenneth rector. For your information, you have 12 1/2 minutes left. Well -- okay. You got me.

Thank you, mayor, council, councilmen. I have been enlightened by some of the discussion that has transpired here today and I'm appreciative of that. I have been humbled by rick linkleather's statement as well and I believe janet pearson summed it up rather well when she said this is about the austin film society and studios. And their interests and livelihood. As you know, I am the business manager for the international alliance of theatrical stage employees, local 484 which represents the motion picture workers in the state of texas and glad to say at this point that a good many work in austin because that's where a lot of the work is. There's a few things that have transpired here today that i still -- I haven't had the opportunity to be called before the society's board for discussions prior to this day, and I believe they understand the interesting concerns that I have for several measures regarding the welfare of the motion picture workers in the city of austin. It's kind of apples and oranges to some capacity. We've always respected the austin film society and their goals to be the best they can be in many different ways. We've participated and I look forward and apologize to them because I've been held back a little bit by my executive board due to financial restraints here in the past. But we look forward to moving ahead past this agenda and taking care of our business at hand, which is for us the making of motion pictures. I see in some ways that I may have a new company that I may be approaching to negotiate for a union agreement with if this deal goes through, and i consider myself a good negotiator so I look forward to that moment if it takes place. However, though, a few things I would like to state here just for -- just to get on the record is that after the \$975,000 are spent and we're down to basic economic flows

of rent and employees' wages at that point, compared to Friday the 13th last year four months project in there, they had 70 persons working in stage 4 servicing six different departments. In the four months that Friday the 13th was here, they paid 5 million in salaries and benefits as well 9 million to the local businesses in the area. These are numbers that shouldn't be just discounted in many ways to the city of Austin and the need for economic growth. I would like to take a moment here to also reply back to former member Brewster Mechanical's statement that our film incentive program would only last six months. And I beg to differ with that opinion. We wisely designed it to last two years and to instill the hiring of local persons in all department levels. Just for note, compared to other salaries of the same hourly rate that we earn, it takes -- it takes us only 27 work weeks to earn a yearly salary because we work 12 hours a day. The jobs that we bring to the table to the city through our agreements with Hollywood productions pay very good retirement, health and benefit package for annuity. These are all for the citizens in Austin in that a great many members can afford to buy houses, new cars and make their children well dressed to attend school.

Mayor Leffingwell: And I have you at three minutes.

Thank you very much. I'll sum it up -- we support their visions, really, for going forward in this idea that - to be the digital media concepts and I'm sad and I've said this to Katherine, I'm sad this culminated at this specific time and place because we do need stage 4. The contiguous aspects of it related to what's going on with Robert Rodriguez's project for his upcoming shoot exemplifies that to the highest level. The ability to transport the types of set pieces that are being built.

Mayor Leffingwell: I just want to caution that you are taking time away from --

I understand that. We've had discussions about this so thank you and I -- once again, we appreciate your time to move Austin forward in this matter. Thank you.

Mayor Leffingwell: Thank you. Karen Gonzalez. Karen, welcome.

Good afternoon. I am not film, I am not music, I'm a citizen. I read about this, I hear about this so I wanted to find what's going on with Sound Check. So I went to Sound Check's website so see what they do with film. Film is not mentioned on their web site so I called them and said hey, can I talk to your film department. We don't have a film department. Can I talk to the people who do the looping and dubbing for film and t.v. We don't do that is correct ma'am, we're music, we're not film. So you don't have -- is there someone else in the building who could help me with that? No. Do you have a manager duty who would be able to help me with films? Ma'am, I am a manager. We don't do film. We do music. My question as a citizen why would we bring a company that doesn't do film to the studios? Let's please bring a long-term tenant to stage 4. Let's please get the rent there. There's no company in all of the United States who does this well, who has won awards, who would help Austin's film society. Please, don't bring Sound Check. Let's bring somebody else. [Applause]

Mayor Leffingwell: Paul Alvarado Diestra. I have you scheduled for six minutes.

Thank you, mayor, mayor pro tem, council. Appreciate your time and all the comments. I think this everyone here cares about a lot of the same things. I have a lot of respect for everyone who has spoken and i think we generally agree about for more things than we disagree but on this matter there are questions and concerns we would like to have more thoroughly disclosed with greater transparency and openness than we've had to make sure we're on the same page. I don't think there is any reason why we need to have such a divisive thing happening not only in the film industry but the local businesses and I would hope we could work towards revolving that. I have three big questions i would humbly suggest being answered before a vote take place. How much are we actually giving sound check? Can we quantify that? How much are we actually getting in return? What will both cost at the end of the day all things considered? The other thing I would say is there is really no harm or cost to delaying the vote to answer those questions. Sound check has said we're coming to austin no matter what. Stage 4 is booked for its intended use through the holidays for two projects back to back of robert rodriguez. That to me seems to demonstrate that there is a demonstrable need for stage 4. Film society has identified and they showed commissioned it as well there are other warehouse spaces available in austin. That does also beg the question why can't sound check go to one of those instead of stage 4. One thing I would like to make sure we all remember is austin film studios are sitting on property. The packs pairs are heavily invested in be it prop 4 and austin utilities and has committed infrastructure to an important industry film which again if go there today you lee see there a continued need for especially in light of the incentives we just passed this legislative session which dramatically altar the landscape of the last two years. We had a downturn. It's been hard for everybody. But I spoke to the texas film commission they say right now there are 10 film projects looking at coming to austin. A year ago it was the sound of crickets. So the conditions on the ground have changed. And I think that needs to be taken into very serious consideration and included in any analysis that takes place. There are correlary questions to those questions in terms of quantifying the deal sound check is getting. Let's really look at whether this is a comparable fair market rate and considering the fact this isn't mueller, it's within a stone's throw of million dollar homes and a golf course. That really should be taken into account. There are easy ways to do comparables that will define crystal clear to everybody's satisfaction that what they are doing is fair. There has been a request made to release the sublease. They feel that it's proprietary. I think pending the attorney general's ruling that would be a good thing to wait for and see. Whether we can see that or not. And yes, the city is not a party to the lease, but i would submit that tank georgially it is because this is city observed property that the taxpayers are heavily invested in. This is all sort of kind of about transparency and disclosure. As far as economic return, I've heard the word economic development used about this and absolutely. I think there are major economic development benefits. But let's quantify them. And in any typical economic development deal the city does, there are benchmarks, there are performance requirements that the recipient needs to return to the city in exchange so let's find what the the quantified value of what sound check is actually getting out of this and let's see what we're getting in return. To my knowledge the sublease does not include any requirement to generate a single job or a single dollar of economic impact. That falls outside the norm of how the city usually conducts economic development policy especially as involves any substantive incentive or advantage. So I would ask that that be looked at. In addition, you know, I think it bears mentioning that sound check doesn't necessarily bring anything particularly new to austin that we're missing. There are many companies that already do what sound check does and do it well so I think we need to consider the impact on them in the context

of how sound check is coming in. Again, that to me I think bears some analysis and that's the process that is not rocket science but I think that is an obligation we have to local businesses to consider. There's also the impact on austin film studios that i think is very serious. It's 29,000 square feet of space. It is, again, committed. Yeah, it will be improved and there's value to that but what if this doesn't work or what are the plans for reversion back to film should that be something we want to do, how is that cost going to be covered, what are the bacteria in terms of traffic noise and security. Stage 4 is in the middle of all the stages. This is around the clock operation that's not going to be particularly meek in terms of big concert tour prep and vendor space and tenants and retail. That should be considered. Not just for the impact on day to day film production at the studios but also the larger impact on the development and on the community. That seems to be something that would make sense. And then also really jobs. I think let's look at what are the jobs that they are creating versus the jobs we are creating there today and we can show that very easily. That to me seems like a natural question and I'm just a little concerned as to why we don't have answers to those questions yet. Can we not get answers to those? Would that not make everybody feel better about it? And then, you know, move forward in a way that we have I think a lot more support and transparency and disclosure. I hope that the council considers those questions to be reasonable and constructive and that should be part of a process before a decision is made on this. So I would respectfully submit that we delay this vote pending a more thorough analysis of those issues and questions. I'm not sure where I am on time.

Mayor Leffingwell: We have about two minutes left and one more speaker.

Right, let me add one more thing. Just for the heck of it while I'm here. What are austin film studios for? Why did we create them? They were intended to accommodate short notice, short-term leases for film and television in a includesser. You are a preliminary production you need a shooting stage where you've got sets and prep stage where you can build and paint stuff and do things you can't do on the same stage. You need at least that many. Friday the 13th needed that last year. They used the stages. Film -- they've been used and after friday the 13th the stage was actually used as staging area, I understand, for the improvements to be done on stages 3 and 5. But if you take away stage 4, you are not only eliminating a quantum of capacity, you are reducing the ability to do more than one production at the studios at the same time. So that is going to be an impact. And yeah, conceivably we could go find other space, but why should we have to? Isn't that why we have austin studios in the first place? Isn't that why they were created. Especially since we just passed these incentives can we give those a chance to see whether or not they are going to work.

Mayor Leffingwell: Do you want the last speaker to donate all the time to you, gilbert sullivan?

I'm happy to give the rest of my time to him. I'm very respectful of the boom and bust issue. But the studios I would submit were specifically designed to insulate them from boom or bust cycles. It's why they were given land off the property tax rolls, why they were given 20 acres of city owned land for \$100 a year and they are a tax exempt nonprofit. They were given an economic bubble to protect them from boom and bust cycles because we've all known forever that the film industry is boom or bust. That's not a new phenomenon. To now say we need to smooth out these cycles to my flies in the face of the original logic and intent how this was designed. The way I look at it as a preserve, we set this land aside

to protect it from commercial development encroachment and other uses to guarantee that it would always be available for film, regardless of whether we're in a boom or a bust. [Buzzer sounding] I'm assuming that's my time.

Mayor Leffingwell: That's your 30 minutes.

That I think is a very important point to consider that is correct we don't want to throw this away too lightly because it is a unique and precious asset that we need and that decision originally to create this was not made lightly and it's still valid today. Thank you.

Mayor Leffingwell: Thank you. [Applause] that is all the time. There's still a number of other people who signed up in favor or against and not wishing to speak and those names will be entered into the record. So that concludes all of the time we have for public input. And the floor is open for comment and/or a motion from councilmembers. Councilmember Riley.

Riley: Well, first off I want to thank everyone for all the work that's gone into this, both the people working on behalf of the film society and those in the film community who have been raising concerns. I know we're all death dedicated to music and arts in the city and that's what's driving everyone and I think we ought to focus on our common goals there because as much disagreement as there is we all share common ground and I appreciate all the effort invested in this. I've been a little frustrated at the difficult position we find ourselves in both as a result of the -- the information on the issues but regard to release of information regarding this sublease and respective of the time constraints we're operating within. Typically when we are dealing with difficult issues in this 19 we like to rel citizen boards and commissions. And this is a -- this is a fairly big deal to art in Austin and it involves a fair amount of public dollars, public people -- public funds that they've voted on so there's a great deal of interest in the disposition of this and so I've been asking for some time now about the availability of some further citizen reviews of this so there could be some layer of citizen review of this, something between the film society and council where we would have people with expertise in the arts who could have public meetings and discussions and weigh these issues and then make a recommendation to council. We've spent -- we've invested a lot of time and energy in long-term plans for the arts in Austin, and I haven't even heard any discussion about how this proposal, which clearly -- I'm sorry, clearly would have some impact on arts, how does it fit in with our long-term vision about the arts in Austin. Hasn't even really come up. And so I think as I look over the charge of the city's arts commission, I'm struck by how -- I mean if you look it's right there on the city's website the purpose of our arts commission is advise the city council on all arts related matters including long-range planning, allocation processes, coordination with comprehensive plan so that all art resources within the city may be coordinated to maximize promotion and support of arts in the city and so on. And to foster development of arts in the city. Seems to me this is squarely within the purview of the art commission having invested a significant apartment of my own life in boards and commissions, you do take them seriously. And when we have, you know, one faction of the film community pitted against another, I would -- I think it would be helpful to have a citizen panel consider this from the standpoint of long-term planning for arts in Austin. And then a recommendation to council on this and that would provide some additional public process that I think a lot of folks would be interested in hearing. I know time is a serious issue here and there are time

constraints, but I still feel like out of respect to the citizens who have invested their time in all these planning efforts and that we charged with advising us on arts related matters, I think it would behoove us to get the input of our appoint citizens on this very important issue. And so I would move that we postpone this item for -- to allow consideration by the arts commission. If we were to postpone it to our very next meeting, the arts commission will have a regularly scheduled meeting between now and then and they would have time to post this and have a public meeting and consider it and make a recommendation. So I would move we postpone this until the next council MEETING ON SEPTEMBER 24th. [Applause]

Mayor Leffingwell: Councilmember riley moves to postpone until SEPTEMBER 24th. Is there a second? Councilmember morrison seconds for discussion purposes. You have the floor.

Morrison: I guess I would like to hear from somebody from the austin film studios to talk about what a one-month delay, what kind of impact that would have in the lease process.

Good afternoon. Katherine perfectington director of -- delay, delay, delay. You know, we've on-we've delayed before. Delay costs us having a great tenant and the assistance in what they are doing and what we've been going for and working toward. I -- can I address a couple of things also that was mentioned in regards to long-term tenancy? I just want to get the record straight and some of the information that's been brought here is misinformation.

Mayor Leffingwell: If you can find yourself -- confine yourself to answering the question, if councilmember morrison or anybody else wants to ask a question on any other aspect on it, they are welcome to do so.

I feel that in delaying this is just delaying everything that we've been working toward. We've had open forums. We've vetted this with our board. We have an executive committee, a studios committee that are people outside of our board of directors. We had an open forum. We worked with rodney gonzalez and his team at the economic growth and redevelopment so there's definitely been people outside our circle that's been in immediate contact with working with us that we've definitely got their input and we've definitely had open ears and heard from both sides and I feel we've worked a lot within our sublease in hearing what we'll have asked and what they've had to say. But in regards to oversight, we have a lot of oversight. We're a staff that records to the board, to economic development and reports to you.

Morrison: So in terms of the lease potential going away, does it go away if we delay a month?

Well, ben is here and i personally feel that we'll lose it.

Morrison: I guess --

we've got architects on board, we've got construction people on board, we've got austin energy on board. Everybody is on board and waiting to pull the trigger and has projects behind it. We've got

construction that we've put off since a couple months back. And it's not necessarily that sound check will go away. Yes, they may stay in austin, we could lose them as a tenant. I'm just saying in regards to awful their companies that we've got on board that are holding and have been holding through this time period.

Morrison: Okay. Thank you.

Mayor Leffingwell: So I'm a little bit confused because I understood from rebecca campbell that if it didn't -- if it was not approved tonight it would go away, but you are not sure about that?

I personally think it will.

Mayor Leffingwell: Okay. Thank you. Do you have something to add on that subject, sir?

Ben jumper, president and owner of sound check nashville and austin.

Mayor Leffingwell: Okay.

And I did make a statement in the paper that we're not going to give up on coming to austin, but this delay after so many delays and the architect work and everything that we spent the money on, the film society will probably lose this deal and we'll be looking for some other place.

Mayor Leffingwell: Thank you. [Applause] councilmember shade.

Shade: I want to say that I think that this has been a really challenging situation and I have a lot of comments that I could make about it, but I want to say I'm not going to support the motion to delay the vote because I don't really think that reopening a process with a new commission would net anything other than yet another hearing exactly like this one where the public is coming out, the same people will show up, just the same people who have been writing to us the last month, the same staff will come forward, and i don't know that new information will be generated. On the other hand, I will say that until we actually had a day like this scheduled where there was going to be this public process and this kind of, you know, vetting both in the media as well as among us with the individual meetings that we've had, it was finally I think coming to light. I think somebody earlier said if nothing else great came from this it was the fact we finally started seeing of light of what was happening here. I think it was your comment, i didn't catch your name, but that that would be the good thing that came from this, we finally get to see a lot more of the details. I was on the phone yesterday with danny cabella trying to get to the heart of the matter with respect to the utility issues. Trying to figure out what is going on with this property tax issue. Trying to really understand from the film society issues related to what is their dependence on rental income and what does this mean. And I have met so many incredible people, but who are on both sides of this equation. But I don't think that sending this to another commission, and I've talked to chris about this at great lengths, because I think what we should learn from this experience especially looking forward in the next couple of years as the national armory comes on board that we do need to really look at this so this doesn't happen every single time. I think that's crazy. Reality is anything over 50,000

is going to come to council and I don't want any more of this last minute scramble to get to the facts which I feel we did get the facts and I feel I can make an informed vote today, but we do take a lesson from that so this ant what we do every time. I think the suggestion is a good one, just not for this particular deal on this particular day. So I will not be supporting that motion.

Mayor Leffingwell: So councilmember, are you making a substitute motion to approve or --.

[Inaudible]

Mayor Leffingwell: No.

Shade: Let me just say I'm going to make a motion that we approve -- a substitute motion that we actually approve this, that we approve this, but I do want to say that I hope that we will do a different process going forward with future situations. Secondly, I want to say that i spent a lot of time with a lot of people in this room and i have a tremendous amount of respect for people who are on the other side of this issue. Can danny, paul, jay, alma, so many others, and I think that the issue for me was, number one, trying to address the issue of the unfair competition, and I believe I've gotten enough information to feel like this is a -- this is not an unfair competition situation. I do however, think there are real questions about the strategic decision here and what is going to happen with this industry, what is happening with conversion to multimedia, how do these things tie in. We actually have had several task forces including from the arts commission talking about convergence of digital media and how this is evolving. I think that it's a tough call, but assuming that it's not unfair competition, which I do believe that this is a market rate deal, I think that I'm going to side with the folks that believe that the entertainment industry is moving in a direction where there are some synergies here that can exist, that by building a bigger cluster the enter industry grows. I think the film society this helps sustain them and they have an important role to play and they are also are responsible as a not for profit not only for the role they play with future films but also with respect to students and workforce development and some of the other things that happen that maybe some of the smaller kinds of activities would happen in the sound check stage. I also took note about what this incentive package includes and I'm very -- I've spoke to the lobbyists who worked on it. It's interesting to me the incentive that the legislature passed which may not all come to austin but hopefully looted of it will and hopefully when we're done with this everybody will be working on that but it includes gaming, music videos, commercials as well as future films and television shows. I think that's important to understand that even -- even in the incentive package that our legislature passed, it includes some indication that there is this convergence that's happening. That's a long-winded way to say I know I'm going to upset at least 51 of the people in the room and I hope we'll do something productive going forward but I am going to support this.

Mayor Leffingwell: Substitute motion by councilmember shade to approve item 12. Seconded by councilmember spelman. Or councilmember cole. You were first. Seconded by councilmember cole.

Cole: Thank you.

Mayor Leffingwell: I'm going to support the substitute motion because, first of all, I believe it's very

important to the continued viability of austin film society. We've heard a lot of testimony today about the ups and downs that they've been through and the fact that they need a stabilizing factor in their day to day, year to year operations. I think this is it. And you know, the city of austin has a lot invested in the austin film society. We approved bonds to help them back in -- we approved those bonds back in 2006. A lot of that -- most of that bond money has been spent to upgrade the studios out there. I recently toured those studios and was -- it's quite impressive what has been done out there. We're building I think a good facility and we need to make sure that we continue to nurture in every fair way and honest way that we can the austin film society. That's my personal belief. But I'm also very respectful of the fact that part of our -- a big part of our initiative with any kind of economic agreement has to be focused on employing local people. And that's why when this item was last before the council, i personally talked a lot about that factor, that any contract that we approved either directly or that has been done. The agreement with -- we heard testimony previously that the agreement includes a very strong requirement, stronger than the state of texas requires for their agreements for local employment. So for those two reasons I'm going to also support the substitute motion.

Mayor.

Mayor Leffingwell: Councilmember cole.

Cole: I wanted to say that, of course, the film industry is important to all of austin and our colleagues and the overwhelming thing that I learned today is that we need another stage 4. And I am very, very hopeful that you guys can go on into the future and work together so that as councilmember shade pointed out that this continues to be an emerging industry in austin, texas. There's no question that this council has a commitment to hiring local firms and it also has a commitment to this industry, and so I look forward to working with you into the future to make opportunities happen for the group that is not with the austin film society. But I will be, as you know, supporting councilmember shade's motion.

Mayor Leffingwell: Any other comments? Councilmember morrison.

Morrison: I won't repeat the points that my colleagues have made but I will say i agree with them and I also will be supporting the motion. But what I want to stress is i understand the frustration of some of this information being proprietary and not available, but the absolute bottom line for me and absolute yes or no on this reinvolved around whether we are actually are putting a company in a position where there's unfair competition. And so that was a threshold absolutely that I had to get over. And with the numbers that i have been able to get access to that unfortunately are not public, I have convinced myself that we're not putting sound check in a position where they are getting benefits that will give them an unfair stance and position in this community. And appreciate the folks that are in the business that come in and say that they embrace competition because as lodge as it's on a level playing field, and I do believe and i have convinced myself that's where we are with that, with this situation. So in addition to everything else that folks were saying, i just wanted to stress that in terms of my own perspective here. Thanks.

Mayor Leffingwell: Anything else councilmembers? All in favor of the substitute motion say aye.

Aye.

Mayor Leffingwell: Any opposed? No? That passes on a vote of 6-1 with councilmember Riley voting no. Thank you everyone. [Applause] so council, we're working our way through this morning's agenda yet and so we'll take up item number 2 next. Actual we'll take up 2 and 63 together. They are related. Is this requires me to read word for law mandated by law script and I'll do my best to read it word for word. We will now take up items 2 and 63 related to, 1, the maximum proposed tax rate for council to consider, 2, the date that council will accept -- will adopt the tax rate, and 3, setting the dates for the public hearings on the proposed tax rate. And I'm going to pause right there because I know that at least one councilmember has some questions to ask for staff before we act on this item. Councilmember Spelman.

Spelman: Thank you, mayor. Let me preface all my questions and any remarks I might make with the comment first that I'm not going to vote against this item. I think this is an item which we are legally required to pass and I'm not going to be suggesting we vote against it but I want to get the facts out. Can you explain to us the meaning of a rollback rate and how that is calculated?

Sure. I anticipated you were going to ask that question.

Spelman: You did.

You have the truth and taxation guide and just to avoid any confusion. The effective tax rate, the effective tax rate is calculated rate that would provide the taxing unit with about the same amount of revenue it received in the year before on property that are taxed in both years. The rollback rate is the calculated maximum rate allowed by law without voter approval. The rollback rate provides the taxing unit with about the same amount of tax refuse in it spent the previous year for day to day operations plus an extra 8% increase for those operations in addition to sufficient funds to pay debts in the coming years. Those are the definitions.

Spelman: Now, there have been a couple of -- about two weeks ago we thought that the rollback rate was going to be 43 cents change and now we're 09 cents per \$100 assessed valuation. Is that right?

The first one was an estimate based upon the appraisal district's estimates. This next one is not an estimate. It's been published. That is what the roll back rate will be for the coming year.

Spelman: So between a couple weeks ago when we had a tax rate which we estimated, we didn't know for sure. We estimated the maximum rate we could get up to was 43 cents and change, and today 09 cents, did anything appreciable change in the amount of money that we were going to expect to receive if we went all the way up to the rollback rate?

Actually because of where the tax roll came in, the value of existing properties was higher than what

was initially estimated and so it resulted in two things. One, a slightly lower tax rate as you've identified, instead what the calculation came out to be, and slightly higher property tax revenue of \$644,000.

Spelman: How is it the the property tax revenue to the city can be higher if the rollback rate mandates no march than an eighth cent increase? Let me try again. The rollback rate basically says you get the effective tax rate plus 8%. So effective tax rate is what brings in exactly the same amount of money to the city next year as it brought in last year. But we can get 8% more by going up to the rollback rate. How is it that now going up to the rollback rate can create more money coming back to the city than it would have two or three weeks ago based on the estimates?

Well, it's driven by the tax base. And so if the tax base is higher, the effective rate in this case actually ended up being lower than what it would have been. Then the rollback rate is literally 8% higher unanimous the o&m.

Spelman: The effect it rate is calculated and we get 8% on top of the rate not on the take.

That's correct.

Spelman: So -- sure.

Mayor Leffingwell: Just point of clarification. If you calculate the effective rate and you add 8% to that, you're not going to get the right answer.

That's correct.

Mayor Leffingwell: So i think it needs to be made clear if the tax rate is 40 cents and you take 8% above that, you are not going to get the rollback rate. So it's a portion of the effective rate, a portion of the effective rate that you multiply, that you add the 8% to.

The operations and maintenance portion of the effective rate.

Mayor Leffingwell: Which is about two-thirds to three-fourths of the total tax rate. Right? 95 cents and the o&m portion of the effective is 27.32.

Mayor Leffingwell: If you military flied 2732 times 08, then get -- and after that you add the debt service, then you get the rollback rate.

Spelman: Thank you for the correction. That makes the numbers work out much more cleanly, i think. Let me ask you a real basic question. How much of how much more are we taking from austin taxpayers with the rollback rate than we would have been taking with the effective tax rate?

Well, one cent with our certified tax roll, win peeny equals approximately \$7.9 million. And I haven't done the math on that, but the difference between the effective tax rate and the rollback tax rate is 2.18

cents. The effective tax rate is 39-91. And the rollback the 42.09.

Spelman: [Inaudible] give or take.

A little higher.

Spelman: A little more than \$16 million. Okay. And that was about what we were talking. We had a little bit more because the assessed value went up, but more or less \$16 million is what we were expecting to get from property tax rate if we went up to roll back, that was how much more, more or less? We're still talking about the same amount of money. Let me try that again.

I just didn't hear the last part of the question.

Spelman: Two, three, four weeks ago, the manager is producing a budget for us. And he was saying we think you need to take the property tax rate all the way up to the rollback rate which at the time we thought that was going to be 43 cents and small change. And that was going to produce something like 16 million more dollars for the city covers and the general fund than the effective tax rate would. Now we've had updates, I don't know what the assessed valuation is going to be. We can calculate an exact number for the rollback rate, not just the estimate, it's lower at 42 cents and small change. But the amount of money that going up to that now lower roll back rate is going to bring into the general fund is still about \$16 million.

Yes, slightly higher than what the initial amount was.

Spelman: A little more because the assessed value has gone up.

Correct.

Spelman: I just wanted to be sure nothing appreciable has changed in terms of the city's position.

Relative to what was included this the proposed budget, that is correct.

Spelman: Okay. Thank you.

Mayor Leffingwell: Any more questions for staff before we go on. Councilmember cole?

Cole: I just have a couple of questions for you, ed. First of all, under the proposed roll back rate that we have here, how much in total annual taxes will the average household have to pay? And I'm sorry I didn't send this to you beforehand, but councilmember spelman made me start thinking. It is a compliment.

Mayor Leffingwell: I think it's \$88 more, isn't it?

It departments if you are looking at the median or the average.

Cole: The median, that's fine. Approximately \$88 more. Can I take that as pretty good on mayor leffingwell's memory?

Yes, I would go with 86, but.

Cole: Okay. 86. We know that there have been other cities in texasou showed us a chart as to how we compare. Will you just briefly tell that to our colleagues again and the public?

What we tried to do on that analysis that we presented back at the time of the forecast is we tried to look beyond just what is the property tax rate because we've always done that and city of austin relative to fort worth, dallas, san antonio, houston had the lowest property tax rate, but we didn't feel that of the a complete story so we wanted to have some measure of what the tax bill actually looked like, which, of course, is a combination of the tax rate and the typical home price in these different areas. And so the home prices are also higher in the city of austin and so we used the texas real estate center as a third party source to try to get at what do the typical homes sell for in these different areas, what's the value of the homes in these different areas and combine the two. Even when we take into account the higher provisions of the homes in the city of austin, we still found that we had the lowest tax bill of those five areas. I believe the highest was dallas at 950, somewhere in that neighborhood, and austin was the lowest at 751.

Cole: so earlier today we had a presentation about our glowing bond rate. City manager has presented a budget with absolutely no proposed layoffs and we know that we've had layoffs throughout the country, not to mention throughout the state. Also I'm understanding the proposed rollback rate we have in front of us is very low compared to the other cities throughout the state.

The rate is lower than other cities throughout the state and so is the tax bill .

Cole: WITH THAT MAYOR, I Will move approval.

Mayor Leffingwell: Well, it's not quite that easy.

Cole: Oh, you have to do the script.

Mayor Leffingwell: We have to follow the script. It was very dramatic.

Cole: It was very dramatic.

Mayor Leffingwell: You're going to get me in trouble. So if there are no more questions from staff, we'll go ahead with the -- with item number 2. We have a resolution to adopt the maximum proposed property tax rate that the council will consider for fiscal year 2009-2010, and set the date that council will adopt the fiscal year 2009-2010 property tax rate. Under state law, a vote on the motion to adopt a

maximum proposed tax rate that the council will consider requires a roll call vote. I will entertain a motion to adopt a proposed maximum property tax rate.

Martinez: I move the proposed maximum tax rate council will consider for 09 cents per \$100 valuation.

Mayor Leffingwell: Councilmember cole accepts. We have a motion to adopt 09 cents per \$100 valuation for council to consider adopting during the fiscal year 2009-2010 budget approval meetings in september. City clerk will call the roll.

Mayor?

Mayor Leffingwell: Aye.

Martinez aye.

Morrison: Aye.

Councilmember riley.

Riley: [Inaudible].

Councilmember shade. Shade [inaudible].

Councilmember spelman.

Spelman: Aye.

Mayor Leffingwell: The motion to adopt a maximum 09 cents per \$100 valuation for council to consider adopting for fiscal year 2009-2010 passes on a vote of 7-0. Prs. [One moment, please, for change in captioners] 7-0 and we don't need a roll call on that one. All in favor of the motion say aye.

Aye.

Any opposed? That passes on a vote o 7-0. That takes us to item no. 63, By state law since we have adopted a a proposed maximum tax rate that is above what state law calls the effective rate we must set two public hearings on proposed tax rate for fiscal 2009-2010 staff recommended setting the hearings on mon 00 and at on thursday, september 9, here at city council chambers at 301 2nd street. I will entertain a motion on 63 to set these dates as proposed for the public hearings on the proposed tax rate for fiscal year 2009-2010.

Cole: I move. council member cole moves approval of the motion as proposed. Is there a second? Second by council member morrison. All in favor of the motion say aye.

Aye.

Any opposed? Motion passes on a vote of 7-0.

Mayor, I have a question for clarification. I'd ask lela from the law department. The posting suggests on both dates, and yet the motion referred to 9:00 a.m. on september 14.

I believe that that was in changes and corrections.

Okay. Thank you. so it's correct as passed.

Yes, sir.

Mayor leffingwell: okay. Thank you. Okay. Council, that takes us to, i 23, and 23, as you know, is an item that changes the ordinance that governs some of the council's operating rules during council meetings, and I wonder if we could get the city attorney to very briefly outline what those changes are in the ordinance.

Good afternoon. Jenny gilchrist with the city law department. The ordinance that's before you for passage makes four changes in the code that were necessary to implement the procedural request that council made last week. The first part reduces the number of council members necessary to move an item and set it at a time certain. The second part reduces the number of speakers signed up on an item that automatically results in it getting pulled from the consent agenda. The third part makes some procedural changes so that the code is consistent with the way the city clerk actually takes registration information from people. And the fourth part limits the number of -- well, it also makes a procedural change to make it consistent with the way the clerk's office registers speakers, and it clarifies that someone can only come and speak once every third meeting. And I apologize, I looked back at the resolution this morning and it said once out of every three meetings and not out of every third, so staff would actually request an amendment to the motion as made to change that word in part 4.

Mayor leffingwell: okay. with that, council, unless there are any questions from staff we'll go ahead and take public testimony, and the first speaker signed up neutral is debbie russell. Is debbie here? Next speaker is gus pena, signed up opposed. And after gus will be fred rodggers, if you're in the room.

At the risk of being called a traitor, I think you-all deserve to serve lunch or supper here to these folks. My name is gus pena. Let me set the basis and foundation for my statements. I am a former discrimination and complaints investigator for the department of treasury, have many years of experience dealing with alleged discriminatory practices and actions. First and foremost I want to say to the aclu and the league of women voters, I'm very highly respectful of what you-all do. I am very highly disappointed at the position both of you take. Aclu is neutral, my god in heaven, first time in a whrong time. League of oh ein a long time. League of women voters, I -- you did an outstanding job bringing forth information about the candidates, their positions to the community. But the statement that one of the ladies made that, you know, she supports the change, well, let me tell you something, people. I take

time out from my schedule and I'm very busy, and I was -- like I said, i was hurt in a serious automobile accident. The lord gave me the right to live again. My right as a citizen, as a marine -- united states marine corps military veteran has been compromised if you pass this proposed ordinance. Many of our rights are being eroded throughout the year. Everybody has right and opportunity to do what I do to sign up for citizens communication. It has happened before, but it is very rare that my issues and other people's issues that I bring forth are repetitive. There have been many indication occasions that not all ten slots are filled. This is being carried by kiz 88.7. Let the record reflect, I'm gus pena. An east austinite, aim a mexican-american, 90% native american. I grew up in east austin. What is being proposed to change here, listeners, is very highly offensive, discriminatory and in a despaired manner. Let me me tell you this also. Everybody has right to come over here and sign up and take time off from their schedule. The doors are not barred. But what is being proposed is people like me will only be allowed to speak once every three meetings or four meetings. That's not acceptable to me. I find it highly offensive that this type of action will be taken against somebody who has brought issues from the people, about the people and for the people. I will be honest with you. I'm going to leave it like this. I will not say anything else. This is not a threat but this is a promise. I believe strong -- we believe strongly, but i received counsel from a retired federal judge -- that we will win in a court of law. If it takes taking legal action on this issue, we will do it. I just feel highly offended that we have to go this route to people I helped get elected, chris, lee, many, many, many hours I spent, you too, laura morrison, you're from the anc community. Bill, I've known you many years, I ran against you in '97. But I'll wrap up. This is not a threat. This is a promise. There will be federal action taken in a federal lawsuit, in a federal court. Thank you very much. thank you, gus. Fred rodders? Is fred in the room? Jane nelson? Jane nelson? Linda green? Linda is here, and after linda green govino fernandez. Welcome.

Thank yo hanging in there all day. On february 12 I started speaking about fluoride in our water, and between february 12 and today I've spoken, I believe, five times, so that's a total of only 15 minutes in six months that I've spoken to you on an issue, 15 minutes in six months. Paul robbins told me earlier today that back in the '80s citizens communications were an hour, and so what I would like to ask you, please, is on the last section where it says a person may not register to speak at general citizens communications more than -- more often than once out of every third regularly council meeting, that you delete that, and above it where we've been given the opportunity to speak -- to sign up between the 14th day before council meeting and on the following thursday, which is seven days before council meeting, that if someone has spoken and then wants to speak again, that on that 7th day before council meeting, that thursday before council meeting, if there are still openings available, that anybody, regardless of how many times they have spoken, be allowed to sign up and speak, because last thursday when I called in to sign up to speak, there were many openings last thursday for today's session, and I have to tell you, my name is spelled g-r-e-e-n-e, and i had a young ancestor who was a blacksmith who fought under general washington for my right to speak and my freedom to speak, and both my father and both my grandfathers were retired full colonels, and they fought for my right to speak. And I seriously feel this is jeopardizing our right to speak which we're only allowed three minutes anyway, and if there is positions open, we could resolve this by saying if you've spoken in the past, previously, but there's still opportunity a week out, the way you have it set up, that anybody should be allowed to speak, and I beg that you reconsider and strike that section d and adjust it. And by the way,

that ancestor that fought under Washington was General Nathaniel Green, and I feel I have a right to follow in his footsteps, and I will fight for the right to speak. And I appreciate this consideration. Thank you. Thank you, Linda. Govino Fernandez, and after Govino will be Paul Robbins.

Good afternoon, Council, my name is Govino Fernandez with El Conicilo, which is a coalition of American neighborhood associations. I was on to speak about my experience when I was working for an elected official, and that was at the county, and never in that forum did we ever discriminate or sanction or put limits to freedom of speech. It is very disappointing that the majority of this Council, which supposedly is liberal, supposedly is neighborhood, supposedly is former union, you know, that come from that base of defending and protecting civil rights, freedom of speech, is entertaining an issue of reducing and limiting that voice and that dialogue with our government. Some of you mentioned, well, you can always call, you can email. Sometimes we email, we're ignored. We don't even receive a response. I think only two of you have a response -- where automatically, you know, they just thank you for saying hi and giving input to the community. But again, we come from a community that is disenfranchised politically and this is the only type of forum we have to speak to all of you, to share our fiduciary opinions on how this government is structured and run. And, you know, it's just mind-boggling because when you-all are running you-all have all kinds of -- offer all kinds of promises and pledges of involvement and what not, but once -- I don't know what happens once you're elected and you take the oath, and you also take the oath to protect the laws and the constitution of the United States, and one of them is freedom of speech. And I can understand you trying to organize the discussion, but, you know, instead of enhancing, instead of promoting dialogue, we're stifling it. We're limiting it. We're -- for example, we asked for a postponement of 56 so that people could contribute to the decisions of our government. Not one person honored that request, and we talk about disrespect or lack of respect. That is disrespect, because a lot of the people that we speak for are blue collars and do not have the time to come visit. Citizens communication used to be offered in the 00s, more accessible to the people. If you have fear and people coming up and speaking to you on a continuous basis, if you can't stand the heat, like they say, hey, get out of the kitchen. No one ran up to you and put a gun to you and said, you will run for office. This is something that you decided to do. This is something that you should be able to tolerate. And I know that on 56 you're going to pass it because of the patronizing behavior that you-all have. Place 2 said it was okay. Thank you, Mayor. Thank you, Govino. Paul Robbins. Ronnie Jimry.

I'm ashamed, I have to correct you once again, Mayor. It's Ronnie, Reefer Seed. All disrespect meant, the Constitution is the supreme law of our land, the gift from our phenomenal founding fathers that override all petty hogwash like what we were speaking about here. You so-called public servants do not fully have the option to selectively deny me or anyone else our duty to express our political ideas to help protect and defend our sacred Constitution. I choose to speak as best as I can about life, love, peace, freedom, no matter what you arrogantly say and everyone here should examine our so-called Constitution, especially you public servants. Our founding fathers found the First Amendment to our Constitution to beware the topic of political freedom for freedom of speech should be, because of the necessity of -- to the continual survival of our Constitution and Rep. In fact, absolute freedom politically -- truly free speech has been ruled to be needed by our own Supreme Court many times. Nowhere have your arrogant plans to limit political speech been approved by any serious scholar of our sacred Constitution. Obviously power corrupts, and in this case evidently imagine the power over ours'

constitutional right is completely -- has completely overwhelmed your so-called intellectual capacity. Again, you must refer back to our sacred constitution in order to defend and defend her properly, and as all elected public servants have sworn to do. You have no right to limit the political ideas expressed by any of us, no matter how difficult you find it to listen to us. Your duty to represent us demands that you listen to our words and ideas. Why is this not obvious to you? Evidently our fluoridated water that you literally have shoved down our collective throats is reducing your own ability to think, and I pity i, because it is still your own fault that we all suffer from this ongoing poisoning, not unrelated to your evil plans, unconstitutional plans, to limit our political speech. In my case choosing -- choosing to pronounce my own name ronnie, reefer seeds, is a weapon I choose to use to fight organized crime thugs and all their gutless servants, like yourselves. Someday we might all decide to show you, mayor, the arrogant disrespect you show me to the organized crime, you thugs, by refusing to pronounce my name at all like I do. Why is it so hard for you to get it right anymore, mayor? I've heard you at least pronounce reefer seed somewhat correctly, which organized crime thugs told you to arrogantly mispronounce my name? Ronnie reefer seed is part of my own right to express political ideas. Please read the constitution. We will all benefit from that. hey, ronnie, I'll call you anything you want to be called. Just sign up how you want to be called and that's how you will be referred to. But you're signed up as ronnie jimry. All right.

My bad. rose myles? Rose myles? Is there anyone wishing to speak whose name I've previously called? Debbie russell? Paul robbins? Anyone else? Okay. That's all the speakers that we have signed up to speak. Okay. You just signed up? Okay. You'll have three minutes. Okay. I have you now. I refreshed it. Two more, actually.

Thank you, mayor, members of the council, my name is jose quintero with the greater east austin neighborhood association. I'm totally against this policy and against this ordinance regarding the free speech. It gives us the opportunity to come out in our freedom and our liberty and our elected officials, to always have that chance to keep update whether at times we're not able to come or come, but it makes it difficult as well as today i had a chance to come -- i mean, wanted to come speak, I couldn't, for some reason, that I got involved. The question here is I've been coming here since 1990 and I used to deal with what I recollect back in them days going through four mayors at the time when the initiative to my community was gang-related activity kids. Let me quote to you what district ron narrows spoke to me one day. He said, joe, this is how i related to gang members, and it's professor spelman who always has introduced himself as a person who studies criminology, things that are happening in the city regarding criminallality, is that he said, joe, there's a lot of gangs. There's gangs that we recollect at east austin. There's gangs in alpha delta clubs, sororities. These are a lot of gangs. So the issue that I now am looking back as far as me coming here is now we have a different gang. We have a political gang, an agenda gang, that we have to deal on ethics and integrity. So for you to come and violate the rights that i have to come speak to you, whether or not next time I'll come and say, well, just cover your ears, you won't hear anyway, you won't listen. So we're in a state of tyranny, and the city of austin is leading in many causes regarding opposing the communities and the rights of the people, and as far as I'm concerned we're in the fight now for our rights, for our property rights, for the things that we address to you as council members to help us understand what you're really doing, because after you vote it in, now you're beginning -- you're voted in, now you're beginning to put a bunch of ordinances and laws all over the place. So I'm asking you to take this back into consideration and not to vote for it -- and not to

vote these ordinances. There's not that many people that come and speak, and if you want to speak, just because one person sits and complains there's too many speakers, then you have to get up in the morning and get up and sign up. Don't make excuses that will make council members, oh, wait a minute, we're tired of hearing joe quintero, because he doesn't like us. I want you to like me. Thank you, mayor. thank you, joe. [Applause] and i believe I called rose myles before. And how about juan reyes, reyes? Debbie russell's name was called first. Debbie, would you like to speak? We'll give you that opportunity.

Thank you, council, mayor. I am -- do want to mention that we are still in protest of creating a black list essentially, even though you've taken it down from four meetings to three, and even though it's only a temporary black list, it's a black list nonetheless. First come first serve should mean that. I think there are other ways to address it. I was told -- you are signed up neutral?

I am. I'm neutral to the overall policy. There's a couple of problems that I wanted to point out, so sorry. And then there's one part that I want to suggest an addition to. So I have a couple of things. But we are -- the original reason for taking -- for signing up two weeks ahead of time, I was told, was to give the city manager's office enough time to have staff here to answer particular questions. I personally have never actually seen that happen that certain staff was called for city citizens' communications. Maybe I'm wrong, but I think we could still do that three days out and I think people could expect that -- you know, that the people that aren't used to two weeks ahead of time would understand the three-day-out sign-up process, and I think that would limit the -- lessen the problem of those who don't get to speak as often because they get locked out from too many sign-ups to be able to speak. So secondly, on the piece that is items that are to be pulled from the consent agenda for discussion, you have seen an email from me. I want to echo the point there is that I think one of the problems that we're seeing is highlighted right now because of the new board and commission rules and our wide swath of appointees having to be made in one time frame. I think if we saved all those up each election year when we're having to make appointments for one particular meeting and then pulled that automatically from the agenda so it is a public hearing, then the public would have input on those from the public serving on these board and commissions, and I think that's an important point because I don't think there is a process right now in place for council to review each other's appointments and to look at the appointment -- the proposed appointees in a whole to see if there is diversity on the whole board and that each particular board is meeting its requirements as by ordinance in terms of the constituencies that are supposed to be represented on it. So I'd like to make that suggestion to you to add that to the list and to make that once a year so that we can have one particular time to all look at that as a whole and ensure diversity on these boards and commissions. Thank you. thank you, debbie. Council member. shade debbie, i just wanted to let you know that actually it happens pretty frequently where staff is prepped in advance, so that's something that -- you may not see it, but it's absolutely something that happens. And secondly, you know, we've been getting all your emails and I think that there is definite interest in adopting some of these ideas that you suggested, so I just wanted to say thank you. And also, hi, ethan, I think you're watching, I'm not sure, but if you're watching, I think you are, i love you and I miss you. that's all the speakers we have signed up. And let me just say as a general response to what most of the speakers talked about, free speech, you know, I'm certainly -- there's no stronger advocate of free speech than I am. The reason this was proposed was to enhance free speech, not to restrict it. We heard from people

-- a lot of people all over the city who talked about how they had tried to sign up for citizens communications, but because they weren't totally familiar with how the system worked they were unable to because even though a few times this summer the slots have not filled out right away, frequently during the school year, during the work year, they sign up quickly, sometimes I've heard within one minute of the time that it's open. So the objective was to increase free speech. You heard that echoed by the -- by several organizations and by francis -- what is her organization? francis McEntire, league of women voters, came down here and spoke in favor of this for that very reason, that it gives more opportunity for more folks to sign up and speak when they want to. So we may disagree about how to achieve greater free speech, but we don't disagree on the principle. I'm just as much for it as anybody in this room. So with that I'll -- council member riley? I would like to -- I would like to offer some new language. well, I think probably we should get a motion on the table and then you want to amend?

Riley: okay. the existing motion? well, I'll move to approve item 23 subject to some language -- council member riley moves to 23 with the understanding he's going to work on it a little bit. Is there a second? Second by council member spelman, and council member riley, would you care to work on it?

Riley: yeah. Well, we have been wrestling with this because I think all of us agree, with the mayor -- what the mayor just indicated, that the idea here is to really open up more opportunities for speech by those who haven't always been involved in the process. And so what we've -- what we've beenorking on is a procedure that will give priority to those who have not spoken in the last couple meetings, but then if we haven't filled up the ten slots by sometime before the meeting, then go ahead and allow anybody, including those who spoke before, to fill out the list at that time. And so -- and so what we landed on is a -- is something like this. We'll go ahead and keep the sign-up at two weeks out, but then at one week before the council meeting, on the thursday before, if there are still slots available, then there would basically be a standby listnd we would fill it out with the other folks who had already spoken. And here's the language that I would offer that we've worked out in connection with both the clerk's office and city legal, and we wanted to minimize the burden on the clerk's office and also have something that would be legally fine. And the language is, a new paragraph, which would be -- it's in front of everybody. It's paragraph e, and it a person may speak more frequently than once out of every third regularly scheduled council meeting if as of 4:30 p.m. On the thursday before the council meeting at which the person intends to speak, number one, fewer 10 people are registered to speak in general citizens communication and 2, all the remaining requests received by city lerk clerk are people who have spoken within the past three regularly scheduled council meetings. The idea is we would fill owpt the list. -- And if no one else signs up we may wind up with the same folks who have been speaking to us every day, Year, they sign up quickly, sometimes I've heard within one minute of the time that it's open. So the objective was to increase free speech. You heard that echoed by the -- by several organizations and by francis -- what is her organization? francis McEntire, league of women voters, came down here and spoke in favor of this for that very reason, that it gives more opportunity for more folks to sign up and speak when they want to. So we may disagree about how to achieve greater free speech, but we don't disagree on the principle. I'm just as much for it as anybody in this room. So with that I'll -- council member riley? I would like to -- I would like to offer some new language. well, I think probably we should get a motion on the table and then you want to amend?

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[00:04:25]

[Inaudible]

clarification.

Mayor leffingwell: okay.

Does this mean that if i wanted to sign up -- if I in the generic sense, wanted to sign up for citizen communication, I would have to sign up at the usual time anytime after two weeks out from the meeting?

Mayor Jeffingwell: right.

But I would only have to sign up once. Even if I had been scheduled to speak the previous week or two, I would automatically be put on to that list and the -- if the space became available a week before the meeting then I would automatically qualify. automatically, a standby list, instead of nudging other people out you'll just be on standby so if room is available you'll still be able to speak.

I happily second. and that was a friendly amendment, so obviously council member riley agrees and you as a second agree?

I have a clarification. Jenny, help me here. In part 4 of the ordinance I'm assuming that the motion includes the amendments to 2-5-28 of the city code, parts c, d and the new part e, that everywhere it says "third" that would be actually 3.

Yes, the language would be changed to say -- actual actual ly, that has not been offered yet but I was going to offer that. But --

I'm sorry.

Every three regularly scheduled meetings would also have to become -- thank you. and that was going to be my suggested friendly amendment, that we change every third regularly scheduled council meeting to every three, and I have another friendly amendment to offer as well. First, is that one acceptable to the maker and to the second?

Sure. and the second one that I have is change to part b, and it's basically a clean-up item. It is to eliminate item no. 4, Which previously read, these are conditions under which the council should not adopt, by consent item no. 4, And the current ordinance says, on which two or more council members intend to register a negative vote. And we couldn't actually figure out how that could be determined. So we're going to -- my suggestion is that we eliminate item 4 and renumber the rest of the part, and that is my second friendly amendment offered. Is that acceptable to the maker and the second? Okay. So now we have a motion on the table to adopt the 23, with several friendly amendments to add a part e to part 4 and to use the word "three" instead of "third" throughout and to 4 and renumber in part 2. Is that clear enough direction? Council member shade.

[00:07:49]

I also had a friendly amendment to offer, and this -- this stems, actually, from the discussion that we had on part 1 e, which is about the time certain and the postponement issue, and several people have raised the issue about the new process on zoning cases to be able to send out the public notice that says, you know, the public hearing is held at a certain time, and the notice doesn't say the public hearing will begin at unless you get two council members to promise that they'll be willing to table the discussion until 4:00. It was one of the conversation items that we had last week, and I know that we've been talking to people, you know, on staff about this and how the posting language works. So I would

like to propose that we insert a period at the end on -- so part 1 e, the first part of this, it says the council member mayor request that a non-zoning agenda item or hearing be set at a time certain if the council member receives the approval of one additional council member, and I would suggest that we put a period there and delete the second part, which is about the zoning cases, because of the confusion that it clearly creates. So I offer that as a friendly amendment. And I want to reiterate a a point, which is that this is not about tolerating participation. It's about encouraging participation and making it easier on people. That's the goal here. And we're trying something, but I think everyone on the hall that I've spoken to, and staff, all agree that, you know, if it's not working, we'll change it again. But we are trying to be responsive to the comments that we've heard from people. And so I say that specifically also as it relates to the zoning matter because if it doesn't work, then in three months or six months we should take a look at this again. I don't know if anyone will approve my amendment.

Amendment offered by council member shade. could you repeat your amendment? shaded amendment is part 1 e. It would council member/mayor requests that a non-zoning agenda item or hearing be set at a time certain, if the council member receives the approval of one additional council member, period. And the next part of the sentence, "or" would be deleted. So there would be no discussion about the zoning item. You wouldn't need to have this potentially for posting problems.

[00:10:27]

So the practical effect of this -- you go ahead.

The practical effect of this would be that zoning 00 and that's it, and there would be no potential for 00 to any other time; is that right? that would be correct. So the posting language 00, it would be 2:00.

Period.

Shade: period. let me say, council member, to be clear, as a practical matter, that probably -- that not only could happen, it very likely would happen. If we get into the meeting itself and a council member requests to postpone an item 00 00, whatever, it would be highly unusual for that request not to be granted. So that could happen. We just wouldn't get into the problem -- I think the problems that council member shade's friendly amendment is trying to eliminate is getting us into a mess of some kind of notification problem. So -- and as she pointed out, this is really -- this whole idea of moving it up 00 is not codified. It would be a council rule, and we can go back and change that at any time if we find out there's a problem with it. So --

shade: that's correct.

Question? council member morrison. I'm sorry to have missed this before, but could someone remind me what we finally approved with our resolution last time -- when we addressed this? I thought that the zoning items were going to be moved with one council member request? Did that not go? And the way I read this language, it requires two for zoning? go ahead and respond, please,.

The graft ordinance before you distinguished zoning and non-zoning for the first time. It reduces the number to pull a non-zoning consent item, set it at a time 00 and it establishes for the first time that a zoning item can be set at a time certain by 1:00. so I wasn't reading that correct.

That's what the resolution said. so it was going to take one council member to move a zoning item, and what you're suggesting would change that --

correct. and I wouldn't support that. Because what we had agreed on was to move the zoning item, only one council member had to change it. -- Had to request it.

[00:13:03]

I'm actually suggesting that the hearing be set, you know, and that -- and that 00 and that there not be this option for individuals to seek the permission of one -- you know, of one council member. It seemed to me that we found -- and was actually your staff member who made this point, that when the staff sends out a zoning of notification regarding a zoning case it states the zoning hearing will begin no earlier than a certain time. It doesn't it will begin at unless you get a council member, whether it's one or two, to be willing to table the discussion until after 4:00. When we started talking to staff it became clear that bob's point was a good one. It's very, very difficult to notify everybody. So the idea on zoning was that we just post it for a time and then the reality is is, as leffingwell said, if council members want to change it, of course you get the approval of another council member and that's going to happen, but it doesn't put the onus on the staff to have to post things in certain ways, when they may -- communication is just too difficult. well, I thought that's exactly what we were going to try out when we passed our last resolution. I certainly understand that there is the notice issue, but -- but what we had agreed on was that, you know, one council member can do it, and I guess that if I -- maybe if I could ask guernsey, we have this proposal, and yes it's going to be complicated, but i think that maintaining -- fundamentally it's no different than what you're suggesting. Would you change the notice language one way or another? well, the language, probably the only change would be to show at 00, and then if there was one or two or more council members that just asked to 00, we would hear that, and if we knew the applicant was here we'd probably inform the applicant and the affected neighborhood group or individual that might be in favor or opposed of that. But we would still have to notify for 2:00. Our procedures are basically set out that we start the notification process almost three and a half weeks in advance of your hearing to make newspaper deadlines and mail-out deadlines, so there's not a way that we 00 that far in advance.

Morrison: right. And so the fact of the matter is if we take this language out as you're suggesting, we'll have a situation where two council members requesting will change the time, and no change to the notice requirement except changing 4 to 2. If we leave this in it's exactly the same situation except one council member can request a change and time certain, and so I would prefer to keep it that way. I think it keeps -- it makes it even simpler in terms of having to coordinate between council members. So I wouldn't support taking that out because it's what we had agreed last time. and I will say that the confusion, I think was that I thought we were going -- the discussion was going to continue because the staff would have to come back with sort of the mechanics of how does this really work? And so when we

saw this this week, this, you know, presented a challenge. So I propose this idea, and if there's a second and votes for it, you know, fine. If it gets voted down, fine -- it's already been accepted by the maker and the second.

[00:16:38]

Shade: okay. So --

and I would just offer clarification. If this language is removed, then the two members to set time certain only a replies to all -- we need to add the word non-zoning. isn't it true that in any meeting at any time a council member and a colleague can make changes such that we're talking about? do it every meeting. I just would rather keep zoning and non-zoning separate because the point was we had different zoning and staffing challenges. That's what I was trying to address. If people don't want to vote for it don't. I was trying to address the issue. do you want to weigh in?

Jenny, if you'd come back to the podium because I want to make sure that i understand since under our code it's my obligation as the city attorney to get this drafted in the proper form before council votes on it. My understanding of the amendment offered by council member shade that has been accepted as a friendly amendment doesn't change the number of council members that can move the setting time of the zoning agenda item. What it actually does is takes that option out for zoning agenda items and prefers the ability for a council member to move only non-zoning items. Am I hearing that right?

That's accurate. The way this is codified now, two members under the procedural rules can request that something be set at a time certain if it's a non-zoning matter, bun there is no codified -- but there is no codified procedural method to delay a zoning item. but this is for the day of the meeting, correct? I mean, you're only doing this because -- we're only doing this because on consent items there's no notification required. Correct?

We have never made a distinction before. Procedurally I believe council's practice was when any council member got one or two more, they would delay it. Again, these are the rules that you set out that inform how you-all work together during the meeting. We just never distinguish between zoning and non-zoning. so it would clear things up in your mind if we eliminated "

[00:19:06]

it depends on what council's intention is. If council's intention is to always allow a consent item, whether it's zoning or non-zoning to be set at a time certain with -- at the request of two council members, then the word non-zoning should come out. If it's council's intention to say only what I would have called a regular but a non-zoning consent item, be set at a time certain, then this is accurately written. well, I think we're talking about all of this happening on the of the council meeting, correct?

Yes. so it's pretty obvious that you couldn't establish a time certain that was earlier than what you gave

notification for, right?

Yes. so I'm just having a hard time determining what the effect would be. I don't see any effect.

Literally read this creates the argument that your process does not allow council to set a time certain for a zoning consent matter, literally written. And again, these are your procedural rules and you can wave them and change them as the meeting proceeds at any time. so it would be more -- would it be more clear -- all of this is happening on the day of the meeting, so we're not talking about changing notification.

Yes. it would be more clear if we struck the words "non-zoning item," and then if two council members decided, i want to move this time 00 until noon, you couldn't do it anyway?

No, because there's another provision that says time certain have to be heard later. so it really has no effect to remove the words "non-zoning"?

I didn't care about that issue. My chair is to -- the period, so the zoning and agenda items are not part of what we're talking about. So in other words zoning cases -- my goal was to keep it exactly as it is currently except for the zoning posting time instead 00, but we wouldn't add this new wrinkle with certain council members, one or two, can change the zoning time. I think we were trying to address that because we were 00 or 00 is a better time for folks, and I think what i heard is there is a lot of argument for keeping it at 00 and there's a lot of argument for keeping it at 00, but the confusion of the way it gets posted for 2:00 was problematic. So maybe I'm misunderstanding it, but what I was trying to address was simply, you know, the concern that I heard raised, and I felt like I vetted that. council member spelman? let me run this past jenny and perhaps the original language would actually accomplish what we all wanted to accomplish. If we left it the way it was in the first place, that means that if -- it would still be posted, zoning items would still be posted for 2:00. They would always be posted for 2:00. If on the day of the meeting or the day before one of us found out that some people 00 and 00 for one reason or another, then we could request of the rest of us that we postpone that one item that one day for a particular time after it had been posted for 2:00. That's what the current language would allow us to do. And if we remove the language -- if we put the period where council member shade was suggesting putting the period, at least looking on its face, my understanding what you just gill crest, is on its face it looks like that would remove the option to 00 to 4:00 some other time.

[00:23:02]

That's accurate. The only reason I added a non-zoning agenda item was because we were distinguishing between how the number of council members that could request that any item be delayed after its time certain.

Spelman: okay. And since what we've been talking about is an informal practice but we're codifying it here, maybe what the conversation ought to be about is how many people do we want to be able to request a time certain for a zoning case and should that be different from the number of people we need

to request a time certain for a non-zoning case.

And by way of further clarification, before this change that's before you was proposed, there has been no language in the code that relates to taking a time certain matter and setting it at a time -- I mean, taking a zoning item and setting it at a time certain. It only related to the morning agenda, for the most part. right, and that's what I was trying to attempt that we keep it that way, that we don't add this complication with the zoning, that we keep it simple, and I did -- I have had a series of emails with constituents. Some of you have been on those email exchanges and i feel like I talked about this in a number of settings, but if I'm not coming up with the right way to do it, I don't feel that strongly about it. People were saying it was a challenge and so I was instructed that if you put a period there it would solve the problem. Now there's some disagreement about that. I don't really, you know, feel that strongly about it. I think -- I don't care. I mean, we've never -- in other words, keeping -- if it's always been done informally, why wouldn't we keep it that way so that to the public the only thing that's changed is the posting time, not some new mechanics.

Mayor? council member morrison. I don't know that this is actually something that we've also done informally where, you 00 as our time and occasionally we might be able to give some indication that a zoning case might not come up till 7:00 or 6:00 or something. This does really give a heads-up to folks who might need to be staying at work and not come down to be able to speak their mind. So I feel like this -- this is significantly different than what we're doing before, with the consideration and courtesy to people who can't leave work, to be able to give them that time. And I thought we had already been through all of this with our resolution that we passed that specifically directed that it be one person for council -- for zoning cases, so I would strongly encourage us to leave it as it is right now, and I'm not quite sure what parliamentary procedure that might be. just to be clear, council member, the ordinance was drafted in accordance with the direction in the resolution. What is being offered here is now an amendment to that, which is perfectly in order. So are you -- would you like to offer -- this has already been accepted by the maker and the second. If someone would like to offer an additional friendly amendment or amendment otherwise, now is your opportunity. well, I wonder if I could make -- maybe you could help me out here -- a stut substitute motion which is the same as the original motion without the last amendment to remove that --

[00:26:35]

perhaps a simpler approach would be for me to withdraw my second -- ore withdraw acceptance of shade's amendment as a friendly amendment. We can just take a vote on it. council member spelman withdraws his approval. I guess without objection he can do that. So that means the friendly amendment is not approved, and council member shade, would you like to take any other action? I'll just -- we'll just, I guess, vote on it and -- do you want to offer it -- I'll offer it for amendment, put a period at the end of council member and delete the -- starting from the word "or" through the end of that sentence. council member shade offers the amendment to -- as described. Is there a second for that?

Second. second by council member cole. Any further discussion? All in favor say aye.

Aye. any opposed?

Opposed. council member morrison. That passes on a vote of 6-1 with council member morrison voting nay. So that brings us to the main motion, which is to adopt the ordinance as amended. Are we clear on the amendments? All in favor say aye --

mayor? mayor pro tem?

I have been waiting patiently for qui a while. I just have a couple questions. I don't mean to keep this going -- you're just in time.

I do have some questions that even based on the answer may even improve this even more. Jenny, the open meetings act is what applies to the posting and what we post for agendas, and so the conversation about needing to have it posted with the citizen's name who's speaking was part of the issue of why we needed to kind of shut down the sign-up period, if you will, before we post our agenda.

That's accurate, yes.

So can you tell me why, then, when we have boards and commissions meetings and council subcommittee meetings, that we just have an agenda item that says, citizens communication, and any citizen can come up and sign up for three minutes, literally, at the time that motion is brought up. What is the difference and why?

The registration process that we use gets -- captures both the citizen's name and the subject matter that they're going to speak on. Because we have that information, there is an attorney general opinion directly on point that says, citizen communication can be posted just as that. However, if the governing body has information about what's going to be discussed, they need to post it. So because of the way we register people, we are compelled to put their name and the subject matter.

[00:29:32]

Why doesn't that apply, though, to boards and commissions and council subcommittee, because when we ask them to sign up, we ask them reason, and they have to state the agenda item and what they're going to discuss.

But they sign up on the day of the meeting.

Right.

We don't have advanced notice, so when we preregister under our -- under the procedure that's set out in the code, when we capture that information before we post the agenda, then we have a duty to include that information.

So why couldn't we do a citizens communication process similar to boards and commission meetings and council subcommittee meetings where we allow folks to sign up up to that day so that more opportunity could be provided to folks who don't normally come down and speak?

There absolutely could be changes in the registration process. The way it works now, and gentry and I have talked about this, they capture the name and the subject matter, because that's the process that they use. That could be changed to capture only the names. They could not open it up and --

martinez martinez but robbins signs up every week, he literally puts city issues. He doesn't talk to us about what he's talking about. He talks about city issues. And he comes in and talks about whatever he wants. I just don't understand the hair splitting and semantics over why we can't do our council meetings just like we do every other meeting.

It absolutely has to do with the early registration process. If we didn't register people early, if we changed that -- if we did that, we could have sitcom and people could literally sign up up to the point of the meeting. I think the ethics officer wants to weigh in on this. It looks like he doe.

Can you whisper in the microphone? while they're whispering to each other, I think a good reason for having the subject the person wants to speak about is so that we can have than we do have staff available to answer those questions. We don't know what they're going to talk about, that means that we would have to have representatives from every department here at city hall sitting -- standing by ready to listen to this testimony for every citizen's communication. So it's really for the benefit of the people who want to come down here and talk about something substantive and get an answer to their question. It's designed to do that. Now, if somebody wants to sign up on something that's totally vague, like city issues, I mean, they can do that, but they're not going to get a substantive answer in most cases because nobody is going to be able to stand by and answer that question. I realize that but I think that's -- we talk about why we buy lunch for all these folks to stay here at city hall the entire day and why we buy them dinner, so that they can be here. I mean, it's just -- I think it's just creating a process that truly does open it up for folks who don't sign up on a weekly basis and who may have an issue. Let's say we adopted something on consent agenda, and they didn't realize we were adopting it. They could literally come up and sign up ten minutes before noon, if there was a slot open, and speak to us. And I think that's appropriate. well, could I respectfully suggest that we study that for another day? yes, with all due respect I'll let you make that suggestion. this is kind of a last-minute blockbuster here. Is there any further discussion of the motion as amended? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a 6-1 vote with council member morrison voting no. And we are now at our time for recess for live music and proclamations. Council is in recess and we will -- mayor pro tem will introduce the live music for us. Doayle nelms meszaros meszaros ruben ramos reuben lurie rusty weir

are you ready? Good evening, everyone. It's now time for our weekly live music here at austin city

council. Today we have a group called the daze, and this is a homegrown, under 21 band, that they've been together for four years and has already built an impressive list of achievements and outstanding performances, with a track featured and performed in this summer's film band slam, their debut release, straight jacket hymns, is quickly gaining national tension. The album with all original songs was produced by musician producer rick decostillo, I imagine that's the rick from here in august. All right. Today the daze will be celebrating the release of their debut album at and tone's, so everybody pay attention and we'll all head over to antone's, after zoning. Please join me in welcoming the daze. [Applause] [music playing]

thank you. that's pretty darn impressive. I don't know if you know this but the lady bird lake 00 to 10:00. I think I'll make a phone call to see if they can let you guys do the lady bird lake stage. We had some acts cancel out so it's literally dead from 4:00 to 10:00 on saturday. So I'd love to hear you guys play there. It sounded great. Why don't you introduce yourself and the band and tell us if you have a web site, where your next gig is. We know it's tonight at antone's.

I'm evan, this is chris and that's aaron. And yes, we do have a web site. It's the daze band.net. And yeah, if you want to see a full set, just to come antone's right after you get out of there, we'll be 00 and the 00, and we have two great bands that are friends of ours.

Our meetings last a little late so if we don't see you tonight when can we see you again?

That's up in the air. We have a few things we need to confirm but this is the last one that we've got all the way down. we'll check the web site then. I have a proclamation I want to present to you guys, be it known that whereas -- okay, these guys are invited back every day for the next 80 days so that this can happen every day. Be it known whereas the city of austin, texas is blessed with many creative musicians whose talent extends to virtually every musical genre and our music scene thrives because oh austin supports local favorites and newcomers alike and we are pleased to showcase and support our local artists. Now, therefore, I will wynn -- or lee leffingwell, mayor of the live music capital of the world, do hereby proclaim august 27, 2009 as the daze day in austin. Congratulations, guys. [Applause]

martinez: all right. We'll go to proclamations. Mayor? is anyone here from rusty weir's family? Okay. Well, come on down. so this is kind of a segue, i guess, because our next proclamation honors a native austinite who has been a musician in this city for as long as I've been around, and that's a long time, I'll tell you. Rusty weir is a south austin boy, has played in live music venues all over this city for decades. I never knew rusty that well myself, but he was a very good friend of my brother's, and they palled around, hung out together back in the old days, and so rusty is very sick now, and his -- his daughter-in-law is here to accept this proclamation on his behalf, and we want to take this opportunity to honor rusty because he's been a good austinite and a great musician and has given a lot to this community. So the proclamation reads as be it known that whereas, as in the george strait song rusty weir was a young trubadier and when he rode into the austin scene on a song, he's been playing, writing songs and singing since he was 13 and whereas rusty is one of the founding fathers of the austin sound and has achieved national prominence in the '70s with his hit song, "don't it make you " but he's all -- he's most beloved as a showman who always keeps his audience smiling. And whereas austin is pleased to

recognize rusty weir for the poetic quality of his song writing, his ability to relate to audiences of all sizes, his accessibility and his loyalty, all of which have contributed to our reputation as the live music capital of the world. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim august 30, 2009 as rusty weir day in austin, texas. Congratulations. [Applause] now, this is yours, marina. Would you like to -- you come up and say a word or two.

Do you want to say anything? just say thank you, how is that?

Thank you. thank you. thanks a lot, guys, and this is yours and you can give that to rusty for us, and we'll take a quick picture that you can send him too. This next proclamation is to honor a bunch of folks who believe in keeping our past alive and reminding us of our past history here in austin and central texas, and that the good old days are better than ever. So it's my privilege to honor them with this proclamation. Be it known that texas folklife is a statewide organization which is dedicated to presenting, promoting and preserving the diverse living heritage of the lone star state, its stories, traditional arts and customs, and whereas texas folklife produces an annual series of acclaimed public programs presented live, on film and radio, which reach more than 500,000 people each year and bring regional and national attention to extraordinary texas talent and compelling texas stories, and whereas texas folklife employs numerous local musicians and artists and shares its expert nurture the arts in austin. We are pleased to join in celebrating their 25 years of service to our city and our state. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim september 7, 2009 as texas folklife day in austin, texas. Congratulations. [Applause]

I'm sarah rucker, office and program manager for texas folklife, doyle nelms, susan chairman founding board -- and I would like to thank the mayor and the entire organization for honoring texas folklife for honoring our organization. It was founded in 1984 as texas folk lifer resources and is proud to have austin as its base since. Texas folklife has worked with and supported hundreds of artists, thousands of students and shared the traditional arts with many students not only in austin but across texas. You may have also heard our radio programming on ket and seen our news documentary the big squeeze on klru. Our most recent art exhibit, the landscapes of the southwest, is currently on display with a portion of it at our gallery on south congress and the other half right down the hall in the people's gallery of austin city hall. We have many great events coming up this season to celebrate our silver anniversary and look forward to the next 25 years. Without the support of the city of austin our loyal members and friends, we wouldn't have been able to continue our mission of preserving, promoting and presenting the traditional arts of texas for the past 25 years. Thank you. thank you. [Applause]

good evening, everyone, meszaros, water utility director. I want to do a few -- when we think of environmental stewardship we may not think of the [inaudible] community practicing that kind of environmental stewardship, but really when you take a step back, besides creating jobs and wealth for austin, our industrial partners practice environmental stewardship every day, and one of the ways they do that is through their industrial pretreatment programs. While austin water runs a wastewater treatment plan and clean sewer fluent before it's released to the river, that treatment process and environmental stewardship starts before we receive any of the flows. It often starts industrial pretreatment programs by any of our industries where they spend millions of dollars each year

pretreating sewage prior to it being treated by the city of austin. So we're here to recognize excellence in those preindustrial treatment programs, and today's awards will be for those that have perfect compliance for at least one year in industrial pretreatment of their wastewater effluent. We want to recognize those industries today. We have a series of awards that we want to give out. Mayor, maybe we could join together here. Maybe we could read them off? Is that -- okay.

We have the 3m research site which conducts metal finishing activity prior to the federal treatment standards established in 40 cfr 401, 403 and 433, that do not discharge their wastewater, but they actually rent the circuit boards in their assembly and is an significant instrumental user.

Next we have applied materials cps, which conducts chemical cleaning of manufacturing tools in support of the semiconductor industry. This facility is subject to the federal pretreatment categorical standards established in part 403, 401 and 433. And we have austin-bergstrom international airport, that conducts de-icing activities for all airports entering and exiting abia. It's a significant user and must meet the city of austin local limits. We have the city of -- -- we have the city of austin solid waste services, fm 812 landfill. It is a municipal solid waste disposal facility that operates a wastewater collection and storage system for the leachate and the meth ate flare condensate generated by the facility's operations. We have commemorative brands incorporated. It is a large manufacturer of high school and college graduation rings and ncaa championship rings. The facility is subject to the pretreatment categorical standards of 433. We have the dell children's medical center. There's a large volume of children's medical center and this facility is subject to the city of austin's local limits. We have deposition technologies, which conducts metal finishing activities subject to category al al cal standards, subject to 403 and 433. Djo surgical manufacturers orthopedic implant devices and is subject to chapter 403 and 433 of the federal register. We have freescale semiconductor incorporated in oak hill. It is a large volume semiconductor manufacturer. We had hayward quarts technology, which manufactures quarts wear products for the semiconductor industry and is subject to the city's local limits. [One moment, please, for] david's hospital, the second consecutive year as a large volume medical facility. We have say chem mopac facility, it is the second consecutive year. We have the texas department of state health services, their third consecutive year. Uses diagnostic clinical and environmental testing services. Then we have borden milk products, fourth consecutive year, process milk products and distributes fruit drinks. Freescale semiconductor ed bluestein is a large volume semiconductor manufacturer subject to categorical pretreatment standards particle 469. We have molecu imprints. This is our fourth consecutive year as a semiconductor tool manufacturer. And we have hospira, their fifth consecutive year, a pharmaceutical company and the manufacturers of saline, antibiotic solutions and is subject to part 439. We have the austin lighting products, this is our sixth consecutive year manufacturing light fixtures and is regulated as a new source metal finisher. We have the university medical center at brackenridge. This is their sixth consecutive year as a large volume medical facility and trauma center. We have the travis county tnr. This is our sixth consecutive year. This is a closed municipal solid waste landfill. And it's regulated for the leachate. Then we have the 3m austin center. This is their 10th consecutive year as a research and development site which conducts benchmark scale experiments. And thank y'all. [Applause]

Mayor Leffingwell: So i believe this is councilmember cole will come up to make the last proclamation.

Thank you, councilmember.

Cole: Thank you, mayor. You guys come on up, the health department. I see some of my church members.

Cole: I am very blessed to read a proclamation that our health department has had a lot to do with, especially david lurie. And we are recognizing the -- closing the health gap campaign. And I will read the proclamation. Be it known that whereas a serious health gap exists between racial and ethnic minority populations and the general public, showing they are more apt to suffer from such problems as heart disease, stroke, cancer, diabetes, sexually transmitted diseases, infant mortality and hiv/aids and whereas early detection of disease prompt referral to quality health care resources and immunizations against disease are essential steps to reducing such health disparities and whereas the national closing the health gap campaign is aimed at encouraging individuals, especially those most in need, to live healthier lives and to visit a health care professional. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim september 16th, 2009 as take a loved one for a checkup day. [Applause]

thank you, councilmember cole. We really appreciate this proclamation. This is a day that's being celebrated across the country. And the point is really to reinforce the importance of health screeni prevention. And although we have a hell actively healthy community, we still have disparities in health status in our community and it's largely because not everyone is taking advantage of these screening services, these prevention services on a regular basis. So this is our opportunity to heighten the awareness of that. As you can see behind me we have a lot of great community partners in this effort. And as a local health department we can't succeed without the support of many great partners at the community level. So again, this demonstrates the importance of that and the effectiveness of it. I want to recognize shannon jones, who is our assistant director of public health. He is not here today, but joe barnes, who is from the public health division, is here and representing shannon and the division. And also sam price, who supervises our mobile outreach program. I think sam wants to come forward and recognize our partners and say a bit more about this event. Welcome, sam. [Applause] lurie said, i would like to take a few minutes to recognize all the community partners and supporters and some of our co-sponsors. This event -- without this support from our community partners and our co-sponsors, it would have been pretty tough, but during these economic times they have stepped in to help us to do the things we need to do to make this a successful event and for the community of austin to be able to take advantage of it. So I would like to recognize and thank our partners for really giving us the support we need to make this a great event. So what I would like to do is actually -- the two locations we'll be doing this event. I would like to recognize two people are here from tish mendoza, steve rodriguez. And those events will be has hosted this event for the last four years. This is our fourth annual event. And they'll provide all kinds of good stuff for us. has been one of the great, great partners. And not only in this event, also has -- throughout the year we do screenings and conduct screenings at six h.e.b. Sites all over austin all year-round. for all their support and also for letting us do the things we need to do on a monthly basis to help screen and try to access to people that need those services. Also, we have other partners that are just as important, but wpt to just recognize them -- we want to just recognize them, partners and sponsors. As I call them out they can raise their hand or they can say whatever they want.

Aetna insurance, some of them are not present, but i will call their name off anyway. Aetna insurance. Seton family of hospitals, which is ashton cumberback. Amerigroup. The smile center dental. Sabrina east and kyle mcnabb. Orthotic specialist frank ra marino. Mhr care. Top ladies of distinction, betty williams and a host of other ladies of distinction. [Applause] ankercon home health. American association of critical care nurses, which would be becky rutland. Becky, come on over here. [Laughter] physician health choice, longoria, southern care hospice. And the black faith-based health initiative. And last but not least, i would like to also recognize the health and human services department employees that have really worked hard on this event. As a matter of fact, joe barnes, debora duncan, (indiscernible) emerson. Herman gentry, peter -- how do you pronounce his last name? Magalanas. Anyway, you know what I'm talking about. Corinne in a moore. Cassie penn, debra duncan again. Connie gonzalez. Christina dewitte and larry jackson. I'd like to say without our community partners I think this is what we think should happen in our chunt to have people -- have our community partners come in. The health department is doing a great job, but with our community partners, it really, really makes a difference on how we represent the community. And with them helping us, people can see that these organizations are really serious about making sure that they're taken care of. We really, really appreciate what they do. I want to thank you guys again. Thank you very much. [Applause]

Mayor Leffingwell: Good evening. A quorum is present. We are out of recess. First we'll begin by earlier in the day we announced that time certain time for public hearings that item 85 would be postponed. So councilmembers, without objection, item 85 is postponed indefinitely at the request of staff. Hearing no objection, it is proposed indefinitely. We'll now take up item number 56. Councilmember martinez?

Martinez: Sorry, mayor. I was helping councilmember riley get his agenda up.

Mayor Leffingwell: We'll take up item number 56. If you would like to say a few words, you can. We have a number of people signed up.

Martinez: Item 56 is the \$100,000 that comes from the holly good neighbor program that dedicates a million dollars a year to the residents adjacent to the holly power plant. This was -- so obviously this is to offset the mitigating -- to mitigate the effects, negative effects of the power plant being there for so many years. This year we have \$100,000, just as we do every year. This is for cultural arts programming in and around the holly power plant. We are funding this year alma, the austin latina music association, the dance company, the grandma ca man cha activity center. East cesar chavez neighborhood planning team. East cesar chavez neighborhood planning team for local historic district, for the halloween block party, jen austin, girl scouts of central texas. Latinas, which is a magazine geared towards hispanic young women. And sanchez elementary school. And to an artist named raul valdez, who is going to run a program at sanchez elementary school. All of these total up to the \$100,000. So we'll take public testimony and then I'll have a motion to approve the item.

Mayor Leffingwell: The first speaker is gavino fernandez. Gus pena, is gus out there?

[Inaudible - no mic].

Mayor Leffingwell: All the following are donating time to gavino. Diana castaneda. She's not here. Jeff jack. Jeff jack is here. Debbie russell. Debbie russell is not here. So you have nine minutes. Is joe quintero -- are you signed up? I don't have you on the list. Hold on just a second. so we'll show you as donating your time to gavino. Pardon?

[Inaudible - no mic].

Mayor Leffingwell: Well, I have you on here --

[inaudible - no mic].

Mayor Leffingwell: I have you on here, but I have you speaking with two people donating time to you.

[Inaudible - no mic].

Mayor Leffingwell: quintero wants to donate the time and also you, then he has 15 minutes, and that's the maximum. Okay. So with the addition of mar sellatafaro and (indiscernible), you have 15 minutes.

Good evening, mayor. My name is gavino, fernandez, and I am coordinator he will con sillio, which is a coalition of mexican-american associations. With me today we have homeowners around the holly power plant that were instrumental in crafting and drafting this agreement of a million dollars to the neighborhood after the city council decided not to close the holly power plant, immediately after the fire, and this was the agreement that was brokered by then councilmember max nofziger, commissioner marcus deleon, mayor bruce todd and mayor garcia. The history of these funds was to mitigate the harm that it did to our people for 30 years, the noise, the pollution that caused health problems and caused damage to our people in our barrio that had to deal and tolerate noise of up to 115-decibels throughout the whole day. So that this community, this government could bring in monies and revenue of up to a billion dollars a year. The issue that we have and bring to your concern today is that while that discussion was going on, they also set boundaries. Chicon to the west, willow to the north, and pedernales to the east. And any and all funds were to be concentrate understand this specific area. And I'd like to have the homeowners and neighbors that live around the holly power plant to please stand up because they're here. This is the community that this government pledged to assist in home repairs, cip projects, programs within the boundaries that were set aside when we started doing weatherization. Since that time as councils have changed, most recently we have been denied and ignored the opportunity or input as to how these funds should be disseminated. This current allocation of \$100,000, only four feet the boundary criteria. East cesar chavez neighborhood plan is a far cry from the holly power plant. Right now the house that you see, code enforcement ran off the senior citizen that's 80 years old, believe it or not, she was living in this home. Code enforcement went in and told her you can no longer live here, it's not safe. But because the rules that were put in place that changed the grants from loans by this government is denying this home to be repaired. It's denying a home to a lady that lived all her life and tolerated all the toxic emissions from the holly power plant. And isn't it ironic that this government, when they were proposing to build 10 power plants, joined the bandwagon of not to build them because of noise, pollution, and I'm saying, wow, isn't it amazing that what we were contending all

along for 30 years of the damage that it did to our people, it's true. Yet, this property is valued at \$330,000. I'll go into the rules that are currently in place for the mitigation funds for home repair by the austin finance corporation. Fill out an application, restrict participants to residents who can prove they or immediate family owned the home in 2000. It will be provided as a grant. Activities costing between 10,000 and 30,000, the program fund limit, will be provided as a seven-year deferred forgivable loan. Eligible homeowners may apply for services not previously received up to the program cap. Total property values may not exceed austin 203-b limits as of february 2003 b limits afc must follow is \$218,000. That's why this home is not eligible to receive holly mitigation funds because of this rule. And then it mentions the type of repairs that the pr owe that the homeowners have available to have repaired. Now, the second part is the part that the holly decommissioning committee voted and we made this presentation and gave this information to councilmember riley and we thank him for attending our meeting and hopefully councilmember spelman will be able to visit us at our next meeting to be able to bring you up to par to where we are at in the decommissioning of the power plant. This is our recommendations. And this isn't something new. This is something that was being done when this whole program started, okay? And that is fill out an application, restrict participants to residents who can demonstrate they or an immediate family member owned the home in 2000. The reason it's 2000 is because that's when the holly neighborhood plan was adopted and thus started this infamous displacement of our people based on the zoning change that that plan brought. With priority to senior citizens 55 years and older and the disabled. Activities costing less than 10,000 will be provided as grants. Activities costing between 10,000 and 40,000 will be provided as a five-year deferred forgivable loan. And then again it goes to mention the options that are available. We do want you to reconsider and go and return to the home replacement 15-year forgivable loan on a case per case basis. The need is there. We have enormous amounts of empty lots that could also be leveraged with these funds by having cdbg funds buy the property or buy the lots. If you feel the comments that I've heard is that whoa just want to make sure we're not giving money away and that's why we want to put these rules in here because we're giving money away. And people are flipping the homes and making a profit. A 20, 30,000-dollar profit, we change the whole rules. This lady cannot get help, but you're going to approve today \$100,000, and some of these groups are going to get \$20,000. No accountability. Do any of y'all know what you're going to be voting for? All these programs, 5,000, 10,000. By the way, we were recipient at one time for our halloween party, so i want that to be on the record so that you will know that we have and were at one time recipients of these funds because we saw that these funds were going to everybody but the neighborhood. Okay? So we have homeowners that can't get a roof replaced at a measly 5,000, \$10,000 without a lieneing put on their property. But we can give \$20,000 to a group with no accountability. So we have to go and as we walk the neighborhoods tell gonzalez, sorry, we can't fix your roof. I'm sorry, you will have to deal with the infrastructure of your home when it's winter, the draft, you have wind come in. When it's hot, it's incredibly hot, you can't stay in your home. Right now we have a million dollars in the housing, in austin housing finance. And the information that i got is that, oh, austin housing finance doesn't want to do this anymore because they're just rabble rousers. This is something we don't want to do anymore. If that's the case we have an alternative. We have a lulac nonprofit out of corpus that does housing. We have southwest keys. We have guadalupe neighborhood corporation. Where we would rather see those funds be given to a nonprofit to be able to complete your promise and your pledge to this community of investing and mitigating the harm that you did to our

people. Oh, by the way, do we remember the domain referendum that was on the ballot? You know, don't do that anymore? Let's break the contract. I saw many of you saying, especially from austin, many councilmembers saying, we don't want to do that. We have a deal. We don't want to break the contract. It's not good business for a council to retrieve on a pledge and a promise that we made. And I'm saying, hello! Holly mitigation, you made a promise to us that you were going to invest in home improvements and that you were going to invest monies in this geographic area. So what message is that sending to the community? That you're willing to honor a contract you made with a business, but you're not willing to honor a commitment that you made to homeowners that had to deal with sound noises at 110 and pollution that our people were inhaling while all the emissions were coming down. So there's only three years -- three more years left, and that's until 2012. So what we ask you respectfully is to go back to the original rules in the home repair program. We also need to understand that these are austin energy revenue funds. They are not federal funds where you should apply or attack -- apply qualification and criterias that you apply to federal funds that we get from h.u.d. When we were discussing the home repair option that was brought to us with these funds, we made it very clear that if it was going to be going into austin housing finance that we did not want any hickies to be part of that fund that brought in eligibility because these are austin energy funds. The only criteria was that it be in the boundary areas. And like I mentioned, only four of the \$100,000 that you're giving, programs, meet that criteria. So you're doing an injustice to our homeowners. You're betraying your commitment and your pledge. I remember very succinctly when gus garcia said stop going to the media. We'll work with you. And thus came the resolution for a million dollars a year as long as the power plant was running. You are going to vote on something that you don't even know the accountability each of these programs. \$10,000 To move (indiscernible). Where in order to be a member you have to pay a 35-dollar fee. \$10,000. In today's economy, you don't want to provide \$10,000 for homeowners to help meet code to help home re-- repair their homes. And that is why for us it becomes very important and very urgent that we get single member districts. Because of this type of practice that we're going to see today, that you are going to vote only because of place 2 -- the place 2 person says that this is what you should do. Okay? All of you represent us. Don't you? So why wouldn't you deny this, have the funds go back and ensure that it's going to go to programs that are within the boundaries. A million, 500, \$700,000 that are put into this fund every year is a far cry from the revenue and profit that you made off of our people at the cost of our health to almost the tune of a billion dollars a year. So when you vote for this, i hope that you can go to sleep tonight and your conscience will not bother you because you voted to give monies that were totally not the intent and purpose of -- for these funds and that as of today we continue to not be able to have homeowners access the funds for home repair because of the rules and stipulations that were put in place that should have never been there, should have never been put there, because we have a history with these funds of assisting homeowners with all these rules that you put in place. This is nothing new. [Buzzer sounds] thank you. [Applause]

Mayor Leffingwell: Thank you, gavino. Next speaker is mar selllo tafuro, but you donated all your time to gavino. You had time donated from lewis cerda and laura cerda. Are they here? Do you want to speak? Is your wife donating her time to you? So you have six minutes, mr. cerda.

Good evening, mayor, councilmembers, city manager. This is my first time here. I've got the jitters and everything, but I've token, martinez with me and walked the neighborhood. Of course you saw,, and i

took an assistant of randy shade to see the factor of the homes the way they look and the seniors that nearly -- they need y'all help. They really do need y'all help. And we're here to ask y'all to kind of work with us on this plan to change it and put the money back and come and help the senior citizens because it was then -- them that gave me this opportunity to come and stand here and speak. I'm not a leader for community. I'm not -- I'm for the senior citizens. I'm a big advocate for them. I mean, to make sure that they get the right help and the -- direct them in the right directions to whatever to assist them in everything. But I'm just asking y'all to before you make your final decision to think about it, and if you need to take it back to the back and kind of look at things and reevaluate everything that you need to see, I'm just asking you to do that before you vote on it. I'd love to take you, councilmember spelman and chris riley, with me and kind of see our neighborhood. They really do need your help. And I can't ask for no more. I don't know what words to use today than here speaking to all of y'all, but if you come see what we're talking about you will have a grasp of what we're looking at and what kind of help we really do need. We have -- there was some money donated to some events that didn't have anything to do with our neighborhood, but we have elderly people that are being denied because of travis county saying their house is appraised too high and they can't get help according to the rules of this program. So I'm just asking if you can just think about it before you vote. And I would be glad to take y'all with me and walk, and marc ott to come with us and see. I give my hats off to him. He's been working with me and any time I call him, he answers his phone. And I applaud him. He's doing a great job. And I'm glad to have him here with us. And so I'm just asking y'all for help. If you please just think about it before you vote. Think about it for the seniors because if it wasn't for them, we wouldn't be here where we're at today. They're the reasons why we've got what we have. They're the grassroots. And we have to water them even though we're on the restriction to. We have to water them. We have to keep them alive. We have to keep them healthy. We've got to make sure we show them that we do care. Let's not forget about our seniors. Thank you. Thank you for your time. [Applause]

Mayor Leffingwell: Thank you. Next speaker is paul hernandez. Marcos deleon.

Good evening, mayor, city manager, councilmembers, spelman, good to see you again, mr. riley. My name is marcos deleon, current president of east austin neighborhood association in east austin. I came down here just thinking what more could i say? I was here a week ago. What can change minds, what is going on, what's happening to our barrio in east austin. What can this council do the previous council could not do? What can the decency of a man or woman do to another human being to help tn their life struggle. I'll be 62 in october. I'm considered a senior among some areas. When I look at my -- when i rendon behind me, all the years he's given to this neighborhood. He was the original first president of our neighborhood association. And I think the other persons further behind me. on ott has attended and mike, you have attended, you've seen these seniors. Some of them are very angry, very loud. They talk about the health care situation that comes from the barrio in east austin sometimes, how they act. It's -- I call it their moral anger. Morally they're right to feel what they feel when they're getting pushed out. It's hard to argue sometimes against the money that you provide on this list, but when we think of that lady's home that could be fixed, when we think 40,000, 50,000 may be enough to fix it, that's half of what you're proposing. We think we can fix the roof to \$5,000. It's less a percentage of what you're proposing. That's how we see it. That's why we didn't ask for it this year. Put it back where it belongs, in the community for the elderly, for our seniors. It's a hard decision. I understand, but I think that gavino is

right at one point. All of y'all, every single one of y'all represent us. We need your vote. I remember my late friend's sister, sister turner, dorothy turner, she would say more cos, they all belong to us. It ain't just one or two. They all belong to us because we all pay those taxes. She's right. So we're asking you to look at it and reappropriate this money. You take the time to see how the money has really been spent. Is it really helping those who most need it? [Buzzer sounds] let me say one more thing. It's not our seniors' fault because the land values went up so high. It's not them to be punished because of that. Many feel they're being punished. And this money is from them. Mitigation is a legal term that means mitigating a harm caused. And that's what you've done. Thank you.

Mayor Leffingwell: Thank you. [Applause] alyssa montoya.

[Inaudible - no mic].

Mayor Leffingwell: Okay. Joe quintero has already donated his name. Susana almanza. She is not here. Cynthia valadez. Not here. Annie perez. Perez. Got it. So you have donations of time from ruben montoya.

Yes, and -- (indiscernible).

Mayor Leffingwell: And edward rendon, senior, and also from mrs. rendon.

Yes.

So you have 12 minutes.

Thank you. I'm here to speak -- I'm with the east side neighborhood association. I live at 2006 haskell, about two blocks from the holly power plant. I'm here to maybe address some questions to mike. Maybe he can answer some of them for me. Mike, when the neighborhood voted you in, at that time you lived in the neighborhood. You knew a lot of people. You would soabt with a lot of people. You would talk to them. There were there to give you your votes. After they voted you in, you left the neighborhood, you seemed to forget one thing, that even though you moved, you were still representing us in the neighborhood. You then started doing things that a lot of people didn't agree with in the neighborhood. You started taking money from the holly power plant that was there put for a reason for the people of that barrio, not to leave the neighborhood for other purposes. You did the deal for the pangua, you used the money for that, used the money for mexican heritage center. That mexican heritage center to me has nothing to do with our part of the neighborhood. That's on rainy street. It's there, it exists, but again, you've used a lot of money from the holly power that was there given for the community for that particular area and you took that money now. What I'm addressing is when you wanted the people's vote, you went to them, but it's funny that you wouldn't go get money from the holly power plant, but she didn't go back to the neighborhood and ask the people to take money from the holly power plant. If you can get permission from them. Because that money was put there for us, for a lot of us that live in that barrio, that part of the neighborhood. Not for you to take and use it for other things for your cause or for other causes that you were using it for. So what I'm addressing is why would you do something like that

knowing that a lot of people died, got sick from that holly power plant, and then you would use it for other issues like you have -- I heard you were going to use them for somebody in other neighborhoods. There's different neighborhood associations in our neighborhood. East austin is big. But now, holly street, people in that area were the ones that were affected, not rainy street, not airport, not fifth, sixth street. So that money should stay there. Gavino was talking about an old house, a lady's roof. It's weird that you have money to go give to pangua, you have money to give to the mexican heritage center, what was hard to give money to the people who have been there for many years, must not to fix their houses? Why would you use that money that was there put for us and take it? Now, you probably got -- i don't know if you get permission from other members of the city council people or the mayor, but you need to let us know because you're all councilmembers. At least that's what people say, you are our councilmember in east austin. For you to go take that money and use it for our own use, personal use somewhere else, that didn't benefit us any. Those pangu a's, that was no benefit. In the future we hoped you would come back and sit with us at the table. When we have meetings, (indiscernible) was here at our meeting here. It's funny that every time we have meetings, you're not there at our meetings. I don't know why, but he was there. But your our councilmember. You need to be there when we have problems in east austin. It was there in that area. You're our councilmember, okay? You represent us. Don't send somebody else to do your job. You're getting paid to work for us. We're the taxpayers, okay? Take care of your duties for us. I see you up there, but i never see you in the barrio. It takes somebody to walk through the barrio. Don't worry about east austin. East austin will always take care of itself. We've managed to take care of our businesses in east austin. That's why it's the oldest neighborhood in austin. The councilmember over here, I forgot, I don't know her name, she said the last time I was here, well, there's going to be changes. Well, guess what? There's no other place like east austin in austin. Yeah, there will be changes, but there's a lot of history in east austin. And it's mainly in east austin. We know what's happening. Changes are coming, but a lot of us, we're not ready to give up our neighborhood. We're not ready to give up our homes. We're not ready to give up our beario. I'm 48 years old and I've been in the barrio 48 years. My family will be there 60 years. Some of us have been there longer. I told the mayor last time, you put us there years ago. And years later you want it back because downtown is growing? Everything is looking so nice? We know downtown looks good from our area. Because if you come to east austin, it looks so pretty downtown from east austin. Don't be taking money from our holly power plant, sit at the table and let us know what your plans are before you start messing around with our money because that money was there because people lost their lives. People got sick off that holly power plant. Don't just say we're going to give it to somebody to have a halloween party and another neighborhood association that has nothing to do with our holly power plant. That's our money. That's our barrio. When you start messing around with people's money, I don't think. It's like you have a bank account and somebody goes in your bank account and takes must not and says we'll use it for this. I don't think you would like that. Guess what? A lot of people work hard to close down the holly power plant. It's the same situation. That's our money. I would ask that you would have the respect when you ask us to vote for you and have the respect to come back and tell us, do you know what? Can I use some of this money? If not, take no for an answer. Okay. But at least you tried. People get upset when you do that. There's a lot of people in east austin right now. You know? We thought you were coming over here with good intentions. Well, I don't think that's -- so far it doesn't look too good. I've been talking to a lot of people and we're having a lot of issues, but today this is the issue. Please

address us. Come to our meetings at mets recreation. Don't send somebody else. You come. You were there in the neighborhood when you needed us. You left. Now you don't need us because you're in here now, okay? Remember I lost you last time, be brown and proud. Represent. Represent the barrio. Stay real. Thank you.

Mayor Leffingwell: That's all the speakers i have signed up. [One moment, please, for change in captioners]

and we saw that -- we were standing there looking at where we could lose all our affordable housing stock, so we said, wait a minute, there has to be a way that we can guarantee that we could have affordab housing in east austin and we stood at the rear because of the high value of the land and the property, that most of these players were -- owners were going to face the fact that their home was going to be valued \$300,000 plus. Now, I don't know if you know what \$300,000 in the tax rate is, but it's pretty high. So most of these people were going to sell it. They were going to sell, take their money with them, especially if it was a forgivable loan, and especially at a forgivable loan at the rate of every five years a third gets forgiven. Sabino was one of the prime examples. He used to own a home on candy and 3rd street and we built him a brand-new house. He wants that whole house given to him free. That's the problem that we're facing. There's a lot of people that want things that are free and doesn't realize that we're spending gobs of money. When we spend \$100,000 to rehab a house and then stand with the risk of having to lose it because they cannot afford their taxes, what we need to do is sit down and really take a look at this real seriously. The fears because of their age, especially at 65 plus, they get their tax frozen at that time and they stand a better chance, but he also have to look at the fact that when they pass away what are their kids going to do? I mean, they're facing a huge amount of tax on their home and costs, they're going to sell it so we're losing an affordable home that's worth \$300,000 because someone is willing to pay for it. That's what we need to do. We need to look at it in a smart way, look at it so we can guarantee that -- we work very hard at the mueller airport where, you know, we put a lien on it so that we can recover, there is a guarantee that the people can stay there, especially when they're low income and if their kids qualify for the program, they too can stand there. But once we start giving them all this fund, then we're going to end up losing our affordable housing and i think it's the wrong way of doing it and that's why the cdc made an official statement supporting what we're right now working on. And I hope that the council can set up some kind of working committee to come up with a solution where we're not going to lose our affordable housing in east austin. Thank you.

Council member martin?

Mayor pro tem martinez.

Martinez: thanks, mayor. I'm sorry. I'm going to try to address some of the comments that were made and some of the questions that were asked. Mr. rentoria is right. The program changes we made were made for one reason and one reason only, and that was to try to keep affordable housing in east austin. Without parameters and without requirements that it be forgivable over time, we saw that folks were rehabbing their homes and then selling them because the property values were going up too high. They couldn't affor taxes and they were flipping those houses. That's absolutely true. We know that that has

happened in some houses that we refurbished. That's not what the program is intended for. The program was intended for folks who wanted to stay in and around the holly neighborhood where they had been for a long time and fix their homes up, and that's what the program does. It's absolutely not true that money that I -- taken money for anything personal. The hundred thousand for culture cultural arts is a resolution that this council adopted prior to me getting here, so the hundred thousand that's dedicated to cultural arts funding, that was here before I got here. And each and every year folks can apply for those hundred thousand. The mexican-american cultural center, there was three-year of hundred thousand funding. That was years prior to me being on this council and the second year I was on the council when we no longer needed to put 300,000 to the max, I specifically requested that staff put it back into the home repair program, not increasing cultural arts funding, not going to anything else other than home repairs. It was brought up about the bachanga. Rebrought thawp. That happens in fiesta gardens, but you may not know that the musicians who participated in pechanga fest went to allen, zavalala, mendez and put on music programs for the entire school. Statistics show that 86% of all students who play an instrument graduate high school, and of that 86%, 70% go on to college. That's what we were trying to do is connect these kids with something that taught them discipline that keeps them in school, and pechaunga happened in the neighborhood and it's a great event that's provided in the school system. Somehow it was mentioned that I have used these funds for personal use, and that couldn't be farther from the truth. There's no personal funding going anywhere. And yes, I've lived in four different residences in east austin and I worked my entire career in the fire department in east austin, and I daresay there you won't find anybody that knows me that won't say that I am very proud and I'm very brown, and I'm proud of that. I don't live in the holly neighborhood any longer because I was renting a home there. I wanted to buy a house. I wanted to have a house of my own, for me and my son and my wife. And so I couldn't afford to live in the holly neighborhood. I couldn't buy a home here. So I bought one up off east mlk but I still live in east austin. You know, some of your comments are just completely unfounded. I have been more than receptive to every meeting request that gavis no, marcel, commissioner deleon has ever asked for. We renamed the park, we've renamed streets. So I just that some of your concerns and accusations quite frankly are not founded. But it's okay. We can figure this out. We can learn about each other and we can move forward. serna took me through the neighborhood, talked to folks. You know, he's been nothing but cordial to me, and i think I've reciprocated that. So if somebody wants to work with me on anything, I think my track record is very clear. But the programs, specifically tawsking about this program, not voting on this item today is not going to change anything. This \$100,000 is dedicated by resolution to cultural arts funding in and around the area, and the things that were mentioned were actually adopted by previous councils. I absolutely agree that we need to look at -- revisit the rules. The rule that applies to evaluation, that caps it at \$218,000, I think it's time now to revisit that, because what we see is the case you guys brought up, which is a very value I had case. The house was clearly in disrepair, but it's valued over the federal cap, which was \$218,000. I think we have every right as a council to revisit that and I think it's appropriate that we do at this time because property values continue to rise. As long as the other requirements of the program are met, I see no reason why we can't look at raising that cap so that folks could qualify for those funds, as long as they stick to the agreement of staying in their home it will be a forgivable loan. shaw coming down so she's about to tell me why we can't do it, I'm sure. council member, mayor pro tem, I'm margaret shaw, director of community housing and neighborhood development. I want to actual

the actual 203 b limits that fernandez referred to which is a hud standard are actually for this area roughly \$288,000, and to date no applicant for the program has been denied because of their property value. Just wanted to make that clear.

Martinez: great. Thank you. So, council, I think there certainly are some things we can look into in terms of improving the program, but the program changes that we made I think were positive changes so that we could maintain affordable housing in east austin, and this \$100,000 is dedicated amount that goes to cultural arts programming. I have the entire list of all of -- where all of the funds go, and it was also mentioned that the funds are leaving the neighborhood. The trail of tejano legends goes all along the trail, along holly street power plant. The bali folklorio at ballet east, buying computers for the rec center, the comacho center, these are all -- and I think -- I invite you to look through there, look at what we're funding. We got requests of \$220,431, for grants assistance for cultural arts. All we have is 100. So literally every single request we made was not met, because we just don't have that kind of funds, but we have some great programs going on in east austin. And so I would urge this council to seriously consider adopting this and moving forward, but at the same time working on any programmatic changes that might enhance the home repair program, because that's what those funds are intended for, and I would love to see every home that's in disrepair, that needs repairing, to be able to be repaired. Thank you, mayor. I'll move approval on item 56. mayor pro tem moves approval of 56, second by council member riley. Is there any further discussion? Council member cole. I just wanted to add a few of the issues that the neighborhood brought up. I believe it was back in 2006 when I was first on the council that council member martinez and I sponsored the item that dealt with the allocation of several at the holly street neighborhood that came from the austin energy grant program, and i think the total amount of that was close to a million dollars. And we sat down and we talked about the neighborhood and I was familiar with the neighborhood. I've known govino a long time, even before I was on council. And I just want to assure you that not only does council member martin represent you. We all do. And the extent to which you have concerns or you want issues in your neighborhood addressed, you are free to contact any of us, and that includes myself. thank you, council member cole, and I would echo that sentiment myself. I heard you up here talking, perez were talking almost exclusively to council member martinez. You said he is our council member. I want to tell you that all seven of us up here are elected at large. We are all your council members, so I hope you'll feel free to contact my office at any time as well.

Mayor? council member spelman. the mayor just spoke for me and I think for all of us. We're all your council members. You should feel free to talk to all of us at any time on anything you've got. I've got -- I realize there's \$100,000, it's spread very thin, and when you're dealing with grants as small as \$700, a program evaluation is totally out of the question. It would be ridiculous. On the other hand, some form of follow-up to see whether or not, you know, the \$5,000 grants actually came off, if things actually happened, just to get a sense for what the results of this \$100,000 was would not be out of place, i think. Do we have any method for following up and seeing how that money was spent and how well it worked? I'll ask the city manager to respond to that or have one of his staff.

I'm not familiar enough with the program, so perhaps someone on staff can.

Jeff bias director of local -- at austin energy. Council, you're right, these are very small grants so the

requirements for compliance are not particularly stringent, but what we do is follow through and ensure that we receive -- for example, if there is a particular project that we've funded where they have provided us a budget, in the advance of -- say, for example, one of these has haskel street halloween block party we have them follow up by sending us receipts for their expenditures, things of that nature.

It's a block party, but either way, yeah.

Yes, sir. So if there's a program that's put on elsewhere, we can follow up, and we do follow up with the principal. For example at metz elementary if there is an event, a program that's going to be conducted at her school.

Spelman: okay. So we can verify that the money was spent or what it was intended to be spent for.

Yes, sir spell and we at least have somebody -- somebody is around to accept testimonial evidence or something tug suggesting this is a really good idea and we're really glad you did it or this didn't particularly well, this has at least the possibility of informing your future decisions on this \$100,000 in the future. Okay. And is this \$100,000 and this general mill dollar million dollar neighborhood program scheduled to be in the budget next year?

Yes, sir, the budget continues to 2012, by council resolution.

Thank you very much.

Yes, sir. Anythi anythi further? All in favor of the maition say aye.

Aye. any opposed? Motion passes on a vote of 7-0. Council, our rules provide for he the reconsideration of an item that has been previously considered during the same session, in the event that new information comes to light, that has not -- was not previously considered. The motion to reconsider must be made by someone who voted on the prevailing side, and I think we have a couple of items that can be taken care of very quickly. Earlier we postponed by 85 85 indefinitely. It's been brought to my attention that if it is postponed indefinitely it would have to be reposted, so it's been suggested that we reconsider that and postpone it until september 24, 2009. So I would ask for a member to make a motion to reconsider 85 so that we can set a time certain for the postponement. Council member shade so moved.

Second.

Second by council member spelman. All in favor of the reconsideration say aye.

Aye.

Mayor leffingwell: aye. Any opposed? No. Passes on a vote of 7-0. And I'll recognize council member shade for the motion. I'd like to move 85 until september 24, 2009. council member shade moves to

postpone 85 till september 24. I will second. Any discussion in all in -- --

aye.

Opposed? That passes on a vote of 7-0, and I'll recognize council member shade for another motion to reconsider. mayor, I'd like to motion that we reconsider item no. 23. Due to the fact to the fact that I think there was a little bit too much confusion and that there were some ideas that had been vetted last week that it just got too confusing. So I want to bring it back for a vote. What I'd like to suggest is that we limit it to one item, removing the word "non-zoning" and I'll explain it when we actually make the motion, but I just want everybody to know that I'm not interested in trying to open up a conversation that reopens everything 23 but specifically on the issue of posting times for zoning or non-zoning cases.

Second. motion by council member shade to reconsider item 23, seconded by council member spelman. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Motion passes on a vote of 7-0. Council member shade? what I would like to do is move that we amend what we passed earlier on 23 to instead have part 1 e read, "a council member may request that an agenda item or hearing be set at a time certain if the council member receives the approval of one additional council " and what I'm doing by that is making non-zoning and zoning cases considered equally and making it possible for a council member with the approval of an additional council member be able to request an item -- have the right to change the time of an item. And this is specifically to address the fact that we're going to be changing zoning 00 and trying to make it possible for those people who have a hardship to at least have a way to have their zoning case still take place after work. council member shade moves to amend the ordinance previously passed earlier today, for item 23, part 1, section e, with the change to strike the words "a " is there a second?

Second.

Second by council member spelman. Is there any discussion?

Morrison: yes. council member morrison? I want to say that I definitely support this, and I appreciate the reconsideration. I think it's absolutely critical that we not require 00 for zoning. I realize we're trying to find a balance and use our time as-wisely as possible but we need to be able to accommodate people that can't leave and miss a whole afternoon at work, so i think this will be much better. Thank you. Anythi anythi ng further? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any in opposition? Passes on a vote of 7-0. And I believe that we're ready for our zoning. Running a little bit late guernsey, but here we are. thank you, mayor and council. Let me go

through the items I can offer for consent 00 zoning ordinance, restrictive covenants. These are where the hearings are closed. The first item I'd like to offer for consent approval is item no. 74. This is case c14-2009-0044. For the property located at 8,002 research boulevard southbound. This is to zone the property commercial liquor sales, mixed use, neighborhood plan or cs-1 munp combining district zoning. The next item I'd like to bring your attention is item 75, this is case c14 h-2009-0006 for the property at 1 green lane. Council approved on first reading to zone the property family residence, historic landmark or sf-3-h combined district zoning. steve sadowsky has worked with the hicks family and the hicks family have signed a restrictive covenant that would provide that the owner of the property shall dismantle the house and store the building materials in a manner subject to the approval of the city of austin historic preservation office that allows the house to be accurately reconstructed using the stored materials, 2, that the house or the owner of the property shall store the building materials in a manner -- in a location subject to the approval of the city's historic preservation officer for the donation of building materials to kathleen fish, andy fish and their children, also known as the fish family, for the reconstruction of the house. 3, That no case may any of the building materials from the house be sold to an outside party without written agreement for the reconstruction of the house at a location subject to the approval of the city historic preservation officer. 4, That the city historic preservation officer -- officer shall be authorized to approve the location at which the fish family reconstructs the dismantled house. The preserve location for the reconstruction of the house is within the incorporated limits of the city of austin, in travis county. And finally, that 5, that if the fish family or their designee has not accepted the dismantled house within six months of the release of the demolition permit, then the owner may offer it to the city or the city's designee. If neither the city nor the fish family or designees have accepted this within 12 months the owner shall be allowed to donate the stored building materials to any person or entity who will accept it. With these items, staff would not have an objection 75 for historic zoning, given the covenant which has now been executed, in the possession of our law department. 76, case c14-2009-0063. This is for the property located at 822 and 824 patton avenue, to zone the property commercial liquor sales, or cs-1 district zoning. Council on first reading, approve gr-co which -- or gr-co combining district zoning. The owner has requested indefinite postponement of this item at this time. So those are the items I can offer for consent approval. so clarification on item no. 75. As it reads it shows historic zoning, but you're saying it's offered for consent/denial? yes, you can take -- we can offer consent to deny a case given the restrictive covenant, which is on your dais in yellow, our historic preservation officer, my department, feels comfortable that the house will be restored, relocated and restored in another location.

Mayor leffingwell: okay. So we'll leave 75 on consent with the consent being denial of the request. that's correct, mayor. so the consent agenda for those items where the public hearing has already been held are items 74, consent on third reading, item 75, consent denial on second and third readings -- or I guess second, suffices for now, and indefinite postponement of item 76. And that is the consent agenda. Mayor pro tem moves approval. Council member spelman seconds. Is there any discussion?

Mayor. council member morrison. please show me 74, please. I show council member morrison voting no on 74 and council member riley voting no on 74. Council member shade is also voting no on 74. Okay. All in favor of the consent agenda say aye.

Aye.

Mayor leffingwell: aye. Any opposed say no. The vote is 7-0 with the exception on 74, council members riley, shade and morrison voting no. thank you, mayor and council. Let me continue with our 00 zoning and neighborhood plan amendments. These were the public hearings are open. There's possible action this evening. 77, case c14-2009-0030, for the property on west avenue. This will be a discussion item. I believe you have speakers signed up regarding this item. 78 which is case c14-2009-0055, for the brentwood neighborhood planning area vertical mixed use building. I believe we have at least four speakers that have signed up for this item as well, so this will be a discussion item. Item 79, case npa-2009-0017.01. This is for the crestview neighborhood planning area vertical mixed use neighborhood plan amendment. Staff is requesting a postponement of this item to your september 24 agenda. That's item no. 79. 80 is case c14-2009-0065. This is the crestview neighborhood planning area vertical mixed use building zoning opt-in/opt-out process. Staff is requesting a postponement of this item to your september 24 meeting. 81 is case c14-2009-0041. This is the central east austin neighborhood planning area vertical mixed use building, zoning opt-in/opt-out process. Staff is requesting a postponement of this item to your 20 --r september 24 agenda. 82, case c14-2009-0032, for a property on -- at 1511 south congress avenue. Staff is requesting a postponement of this item to your september 24 agenda. 83 is case c814-2008-0087. This is known as the south shore planned unit development, and this is on lakeshore, addresses -- marina drive, addressing town lake addresses. And I understand council would like to postpone this item and speak to the postponement.

Mayor, it seems that the parties that were involved feel they need more time to share information, and so they have agreed that if this item is postponed today they will not seek a postponement on 9/24, but that's the day they felt like they would be ready to go, and that's a month away. so guernsey, can we leave on this on consent with postponement till september 24? that's my understanding as well, that the parties have agreed to postponement till the 24th. and that's it, huh? Okay. Go back over the consent agenda. For those items where a public hearing has not yet been held, item 79 postponed until september 24. Item -- item 80, 81, 82 and 83 also postponed until september 24, and that is the consent agenda. Do I hear a motion to approve?

Mayor -- council member spelman.

Spelman: yes. moves approval of the consent agenda. and to close the public hearing.

Mayor leffingwell: right. And council member shade seconds. Is there any discussion?

Spelman: yes, mayor. council member spelman? is there a -- i believe there is still a representative of the developer for the south shore district pud here. Is there a representative of the neighborhood that the pud has been working with or talking with? I believe there are several people here from the neighborhood. I don't need everybody. I would just like to speak to one. John, I'd just like to verify that if we postpone this to the 24th of september you will not seek any further postponements and we'll actually be able to hear the merits on the 24th of september.

Yes, sir, that's our understanding, our commitment. you commit not to seek a postponement at that date? spell.

Yes, sir. could we get somebody from the neighborhood?

Hi, mayor, council members, I'm gail goth with the eroc npct, and our understanding is that that would be for first reading only and we would agree to that. we would actually hear the case and would not postpone the public hearing on the 24th.

Yes, that was our understanding.

Spelman: okay. Terrific. Thank you.

Thank you.

Mayor. mayor pro tem? this may be splitting hairs but I'm not sure that we can commit to an action that we haven't taken, so while we understand that folks only want first reading on the 24th, we certainly can't commit that it's -- you know, that we're going to vote, at least that's my understanding. Maybe our brilliant lawyer can correct me. well, I -- I was actually thinking the exact same thing myself. We can't commit to what action we're going to take. The only thing we're committing to is asking you if you're going to forgo your privilege of asking for another postponement on the 24th, or thereafter.

Yes.

Mayor leffingwell: okay. All right. So we have a motion and second on the table to approve the consent agenda. All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a vote of 7-0. And I guess that brings us to, mr. guernsey, item no. 77.

Guernsey: that's correct. and we do have speakers signed up. So make your presentation and we'll take public testimony. Gerns gerns thank you, mayor and council. 77 is case c14-2009-0030. This is known as the beal 1 tract at 1503 west avenue. Just a little north of 15th street. 125 acres, or only about 5,450 -- 455 square feet. The property is currently zoned sf-3-h and the owner would like to zone the property to lo-mu-h, or limited office mixed use historic district zoning. The planning commission's recommendation was to make a motion to deny the staff recommendation for the lo-mu-h zoning and leave the current zoning in place. The property itself is, as i mentioned before, is sf-3. The properties to the north are used for playgrounds zoned sf-3. To the south is zoned lo and office. To the east is sf-3 ngo and a church parking lot, and to the west is loh and office zoning. The property has an existing historic structure. It's approximately 3,600 square feet in size. It's a three-story structure that's existing on this property. The area is located up in the judges hill neighborhood, shoal creek watershed. We do

have a petition that was filed opposed to the rezoning. It was not a valid petition but the judges hill neighborhood noted that this is in their core area that needs to be kept residential and that houses on west avenue from -- from mlk to 15th street are part of this core area that they're trying to preserve. They have a concern about the -- an insufficient number of parking spaces used to accommodate the commercial use on this property, and there are petitions that are in your backup stating objections from people that live in the area. There is also an aerial photo that's on the screen that kind of shows the location of this property, and I think I'll pause at this time and if you have any questions I'll be happy to answer them now or a little later. Questi questi ons for staff? Okay. We'll go ahead and go to the public hearing. I believe jim bennett is here on behalf of the applicant. and bennett is signed up first in favor with the donation of time from gail blocksly. Blocksly? Okay. You have -- you have six minutes, mr. bennett.

Mayor and council, I'm jim bennett and I'm here tonight on behalf of this request for a zoning change. This property has been in the beal family since the early '60s, late '50s, and beal was the property owner that had this property rezoned to historic zoning. She has since passed away and the two daughters have inherited the property. Of course they have their homes and setups already, so they are not in need of living in this structure. It is on the market. Most of the contacts concerning the property have not been for residential but have been concerned for office and/or mixed use. Consequently we've applied for the zoning change to lo-mu h for this property, guernsey indicated to you, the property is zoned sf-3-h at this time, and as council knows for the historic zoning, anytime you make any change to the structure you have to get a certificate of appropriateness from the historic commission. This is a very nice home, brick. It is actually two stories with a partial basement and it is well maintained and well kept. So any change to the structure or the grounds, because the ground as well as the house is zoned historic, would have to go through the historic commission's approval and public hearings for that. guernsey indicated to you, the property is one lot north of the intersection of 15th and west avenue, catty corner, if you will, from the caswell house, and council, we did a survey of the properties from 13th 1/2 street to the south on west avenue, up to 18th street. There are a total of 24 properties in that strip, and we didn't do all of west avenue, but we figured that was sufficient boundaries. There are 24 properties from 13 1/2 to 18th. 15 Of those properties are office zoned properties, six are single-family zoned properties and three are multifamily zoned properties. Of the 15 office-zoned properties, nine of those properties carry an historic designation to it. I'm sure council is somewhat familiar with this area, but with the exceptions, there are some commercial-looking office buildings spotted here and there along this strip of west avenue, but primarily the residential structures have been rezoned and have changed their occupancies to office while maintaining the residential flare and character and look of the residential house, and that's exactly what we think a potential buyer might do in this case. Additionally, as you see from the map, and if you'll let me show you the second one, I've removed all of the uses that are on that map and just give you the zoning that's there, our property is the one that's right the sf-3-h. That's the one we're requesting the rezoning for. The property to the north is indicated as actually a -- because of the number of children it's considered a commercial day care facility mark's church, and that is their playground to the north of us. Their parking lot is on the go property as well as the sf property. That park lot comes up to our rear lot line. The house to the south, which converted to an office, it's zoned for office. The house across the street is loh and noh. There is a single-family on the corner, and

I think that is owners are here in support of that zoning change. Additionally I think council has received on the dais letters from Joseph Turnhill, who is the owner of the property across the street, and briefly he says he supports the zoning change, as well as from Billie Vasnagle, who owns the property across the street as well, and he supports the zoning change. Council, this residential structure is pretty much surrounded by office and commercial uses. This is one of the last pieces here that's not being used for commercial, and we feel like that this house is an island in and amongst the offices, and it appears to be an appropriate zoning request that's before you considering that we are surrounded by commercial -- or office-type uses. The property is small, so we don't think that there could be any improvements that would pass the historical commission as far as tearing something down or adding something to the property, and inasmuch as West Avenue itself has transitioned into offices, once you get removed from West Avenue toward the west and toward the north is more of the Judges Hill residential area, and if I was commissioned to do a zoning change in that area, Council, I would not be before you tonight, because there are very nice homes in the Judges Hill residential area to the north and west. We are not proposing to impede into that area with any traffic or any need for any uses to go into that area. The property is just -- that's about it, it's residential in the middle of office zoning, and we would like to be treated and have the ability to be, should someone want for an office or a mixed use. We don't know whether it will be used partially for office or partially for residential or all of either, but those are decisions that would be made by the future owner. I'll be available should you have any questions. You have two additional minutes if you need them. You should have had five plus three donated, so you have two more minutes if you need them.

Mayor, I think that pretty well sums it. Thank you. Thank you. Next speaker is Patrick Thompson. Is Paul Parson here? Paul? Thompson, you have six minutes.

Thank you, Mayor and Council members, thank you for your time tonight. I'm Patrick Thompson. I own and live at the house at 1510 West Avenue. That is within 200 feet of the subject property, Stubbs' house, and I'm here to tell you that if Stubbs wants to lease or sell her house to an architect or a lawyer or an accountant I think she should be allowed to do that. I think some people mistakenly believe when the city is considering a rezoning request like this one, that it starts with the presumption that the existing zoning is valid, and as you know that's not correct. The law in Texas is that we start with the presumption that the owners private property in Texas have the right to use their profit as they choose. The city's power, you have the power to limit those choices, but only if you do it in a non-arbitrary way, in a reasonable way, and only if it's necessary to exercise that power to protect adjacent property owners. Given the facts on West Avenue, it would be arbitrary for the city to Stubbs' request because there is no rational basis for distinguishing her property from the multiple other properties on West Avenue where the city has already permitted homeowners to convert their homes into houses. In addition, allowing Stubbs to exercise her right to make her home an office will not hamper the --harm the street nor harm the neighborhood. I know some people saying allowing her to sell to an architect will destroy the cark of the street but it doesn't make sense because it doesn't make sense to call West Avenue a residential street. Bennett pointed out to you, he counts from 13th street. I count from 15th street. The character of the street changes pretty dramatically I think south of 15th street, but from 15th street north there are 12 structures zoned as offices, 4 zoned multifamily and four or five zoned sf-3. So West Avenue is a blended street. The people who live and work on West Avenue, and I've one of them,

we live on a blended street. It connects major thoroughfares, 15th street and mlk is within blocks of ut, acc and the capital. It's an incredibly convenient place to live. And you can't expect it to look like a street in the heart of milwood or circle c. It's not -- that's never going to be the character of west avenue. I know that some people have stubbs shouldn't be allowed to rezone her property because it's necessary to maintain a buffer between the commercial area to the east and the residential area to the west, but that argument doesn't work because they're talking about forcing people whose homes are currently zoned sf-3 to keep their zoning that way to form this buffer. But if a person who owns an sf-3 property is entitled to a buffer of sf-3 properties around them, well, that stubbs is entitled to sf-3 homes around here and I would be entitled to sf-3 zoned properties around me. That would be in her case removing the church parking lot behind her house or kicking the law firm out from next door to me. That isn't necessary and that's not the way the buffer works. A buffer can't be made up of the two elements that you're trying to separate. The means of buffering that exists now on west avenue and that will continue to work is allowing owners of single-family properties to rezone their property if they so choose to be neighborhood-compatible offices. That's what's been happening on west avenue for years. You allow them to be classified as no,lo, go or missed mixed use. We're not talking about walgreen's or home depot depots, architects and accountants. I know, it works just fine. I live next door to a law office. I know some of you have been stubbs' house so you know the city now collects revenue from parking meters that it has placed in her front yard. Her front yard is illuminated at night by the stoplights. The black yard is illuminated by a light a couple blocks away. This is the setting that you created for mrs. stubbs' home. I'm not asking you to change any of those things but just to recognize them and to recognize that in light of those facts it doesn't make sense to tell her that she's going to destroy the residential character of her street if she puts an architect's office in her home. Thank you for your time. thank u. Mickey bentley? You're signed up twice, mickey, but you only get three minutes.

Mayor, mayor pro tem, members of the city council, this is what's happened beal has bought that home and her husband in 1961. The city came and put in 15th street. N't there before. They've consistently allowed zoning up and down west avenue and rio grande, taking these homes and letting them be office buildings. She didn't ask for any of this. She's just an island in the middle of office buildings, and she can't sell her property as residential right now. That's not right. A little more history, i don't know how many members of the city council know colonel howes. Colonel house's house was just right up the street. I think it was on 17th and west avenue. He was a very powerful man, secretary of state for president woodrow wilson. Donated house park. During the time that beal and her husband owned that house, or bought it in '61. The city allowed the house's house to be destroyed and made an apartment house. So there's a long history that the city has allowed conversions, even of office buildings themselves. And so I would ask this council to do the right thing and allow this to be maintained as historical zoning, but let it be lo or muh. Thank you. thank you. Next speaker is linette beal-stubbs, signed up in favor. You're welcome to another bentley, if you need it. Okay. Thank you. We'll go to those signed up in opposition. Ben schultz and several people are donating time. Mark seeinger. Mark seeger, james parish. James parish is not here. Megan myself micen boc is here. Joseph howard is here. So you have 12 minutes, mr. shots.

Thank you, mayor, I won't take nearly that long, i don't think. Mayor leffingwell, mayor pro tem martinez, council members, I'm ben shots, president of the judges hill neighborhood association, a neighborhood

that contains this property, and I thank you for the opportunity to visit with you tonight on this zoning matter. Though I will be the only speaker for the association, please note that many other members are present and also that you should have in your possession a petition regarding this rezoning issue, signed by a clear majority of the households and property owners within the neighborhood and opposing this rezoning. It was circulated prior to this issue's consideration by the planning council. A more recent picture of the signers of that petition would show even more signatories. 1503 West avenue rests in the blocks between 15th street and mlk boulevard and between west avenue and rio grande. These blocks form the eastern boundary of our neighborhood. We are the last downtown neighborhood dominated by single-family residences and feel a keen pressure to preserve that status. Interior of our neighborhood feels secure from commercial incursion, but it is on its frontier, such as this is blocks and particularly along west avenue, that we feel we must be vigilant. There are several formal reasons why we think a rezoning to lo from sf-3 for the subject property is not a good idea. The property is an extremely small lot, too small even for today's sf-3 zoning, and the loosening of zoning to lo would guarantee problems for any true lo use. For example, this property, both the house and the garage, are zoned historic. We understand that the historic landmark commission would take a dim view of parking in the front yard, but if not, where does one find the parking that would be required? Does one seek a parking variance from the board of adjustment? Or does one propose to the historic landmark commission that the stark garage be demolished? In either case a rezoning to lo bequeaths a problem to those planning a site plan in the future use. We don't think that represents good city planning. The impression left by city staff that west avenue is in transition to more commercial use is a stretch, to say the least. I draw your attention to this picture. One must first separate out west avenue between 12th and 15th street from the northern section from 15th street to mlk. The southern section is dominated by the downtown campus of acc, is closer to the core of downtown and doesn't have a cluster of single-family residences forming its own core. On the other hand, the northern section is dominated by the judges hill neighborhood and it's single-family residences. The last rezoning case on west avenue between 15th street and mlk at the corner of west avenue and mlk converted a commercial use, an addiction treatment facility to a residential use, presidio townhomes. That was eight years ago. The next previous rezoning along west avenue before that was 18 years ago, and before that one must go back almost 30 years for the next case. That hardly looks to us like a clearly defined transition in progress to more commercial use along west avenue between 15th street and mlk. If anything, what the past 30 years have brought is a growing recognition that west avenue is a threatened border, but note that even with these developments over the past 30 years as the graphic shows, west 15th street -- west avenue between 15th street and mlk is dominated by residential use. We've heard the claim that there could be no residential interest for such a property, but this is belied by the evidence of the old austin neighborhood, to the south as evidenced by the letter, from ted siff, the president of the old austin neighborhood association that should be in your file. They are seeing conversion back to residential use from commercial use. Within our own neighborhood we have seen unsolicited offers just one block north of the subject property for historic commercial property along west avenue, what's pictured here, the house known as west hill, to take it back to a residential use. As a further aside, note that the historic scarborough house at 1801 west avenue inhabited as a single-family residence for the past 33 years will soon initiate the process to change its zoning from mf-4 to sf-3-h. Further, and this is speaking to a comment from the people supporting the rezoning, with respect to the subject property, the live/work

possibility that already exists, for example for an architect or a lawyer, within the sf-3 zoning seems to us adequate and appropriate for a combined residential and business use on such a small parcel of land. A change in zoning to lo could only adversely affect the affordability of the live/work option that already exists. Our experience in the neighborhood is also that commercial zoning deprives a property of the 24/7 oversight that a resident provides, and we also find that issues of zoning enforcement arise more frequently and in a more serious fashion with commercially zoned properties on the borders of our neighborhood. Just within the past two months, for a property on west avenue -- by the way, joe turnhill, turner, directly across the street from the subject property, we the neighbors have had to ask for and have obtained a stop-work order since the property had poured an illegal concrete parking pad in his backyard right up to the property line of an historically designated neighborhood property. These are all formal reasons we think this rezoning request should be denied, but for us there are deeper reasons also. It is the sum total of the residential properties, especially the single-family homes of the judges hill neighborhood that have created the residential character of the neighborhood as it exists today, the last residential neighborhood in downtown austin. That character is only superficially a look and feel that the structures project. We don't live on a hollywood set. It is more importantly that which is created by the individuals and the families who wake up every morning and go to sleep every night within those structures and invest themselves in every way in making those structures their homes. When I speak of investment, I'm not talking merely of the investment of millions of dollars for improvements that judges hill residents have made to their single-family homes. At least \$10 million in 12 projects in the last five years that easily come to mind for me, if one is concerned about enhancing the city's tax base. I'm talking about the way -- I'm talking -- I'm saying that's merely a reflection of the larger investment that we've made. I'm talking about the way we've invested ourselves in a sort of urban living that has disappeared for many close-in neighborhoods, one that many people we speak to wish they could re-create. Perhaps the physicians creed is applicable here. Above all else do no harm. We feel that it makes sense to affirm the values of downtown living that judges hill represents by taking care not to create the small cracks in our protective shell that can germinate and threaten to destroy the organism that is our residential neighborhood. In short, we see many reasons not to upset the balance that's now come to pass along west avenue, that enables it to serve as both buffer for and transition into the last downtown residential neighborhood of austin, the judges hill neighborhood. We don't see that past mistakes, for instance, the destruction of the house mansion with which we're intimately familiar, justifies future action that we see as wrong headed. We ask you to maintain the balance that has come to pass. I thank you for your time and careful consideration. thank you. Mary ellis is signed up in opposition, if there are any questions. If no, sir, those are all the speakers that I have signed up. And so we'll allow three minutes' rebuttal time. Mr. bentley, it's your time. You can designate someone else if you want.

Council, just a few things as indicated by mr. shots. There was a petition filed along with this zoning application and staff has said that that's an invalid petition. It was 0.00. I think most of the signatures from that petition, as I indicated to you before, are more to the west and to the north of this location that we're talking about. No property owners, as i know -- am aware of within the notification area are opposed to this zoning change that's before you. And this is a small lot. This small lot with this historic zoned house on it i think is the assurance, or should be the assurance, that council and perhaps the

judges hill folks should appreciate that what you see there today is what you're going to see there tomorrow if this zoning change is approved. We're requesting lo-mu-h to give someone the opportunity to do either/or or the mixed combination thereof. The purchasers could use it -- continue to use it as a residential or, as council knows, for office use entirely or for the mixed use provisions as they truly stand. The house has 2500 square feet in it. It has about a 200-square-foot basement in it, and once again, because of the historic designation, I think that that gives the assurance that this building, as well as the majority of the other buildings along west avenue, will remain as a residential-looking building with a change of use. The parking lot to the west of us is -- as indicated to you, is zoned office. The church does have the playground next door to us. The small lot next door to us on the corner is also zoned office, and it functions now as a -- i believe it's an insurance business, and as I -- I have not heard of any complaints. shots had indicated anything was wrong with the small office tract there when it got rezoned and change of use. And I think that pretty well addresses it, council, and if you have any questions I'll be available. so, bennett, if it were rezoned how would you address the parking situation?

Mayor, I've talked to staff about the parking situation. Right now we don't know the number of parking spaces that would be required because we don't know what the change of use may prevail. We've looked at it if it was converted entirely to an office building, then i think because of the historic designation you get a 50% reduction in parking. I think staff has calculated that to be in the neighborhood of six parking spaces. If it's used partially for residential, partially for office, until that change of use comes about we don't know the exact requirements other than I can tell you right now for office it's 1 to 275. You get the 50% reduction on that. If it's used all office. If you use the basement and the first floor as residential, then there's one space required for residential and then the remaining at 50% as well. could I ask the same question of staff?

Time is up, mr. guernsey. No, come on back. thank you, mayor and council. If -- I'm told that the building size is about 2,600 square feet, and if it was devoted entirely to office, the requirement would be five spaces, based on 2,600 square feet of floor space. So -- if the building was used -- was devoted to partially residential, bennett is right, that one residence would only require a single space, and then the remaining space would be calculated at one-half the parking requirement. So it would really kind of depend on how much of the building is converted for office -- how much room -- how many additional spaces is there room for? this site is very tight. It's only -- the lot sonleitner about 5,450 square feet. There are two spaces on the property right now. And it may require either a variance or to seek parking that would look at the front yard as was discussed earlier or somehow adopting -- or modifying that rear garage building, which I understand is historic to try to get to the backyard. so you're saying in order to use this as lo-mu, it very likely would require a variance? or additional spaces to be provided in the front. well, wouldn't that require a variance, or designation? it may require you to go back to get that review, but it wouldn't require a variance from the board of adjustment. He could seek a variance from the board of adjustment from the actual number of parking spaces required, but in order to park in the front yard you'd just be going to the landmark commission. so it would require a variance from the historic designation in this case?

Not nell, but it would require you -- not necessarily but it would require you to go back to them to get a

review. just a review and then what happens?

Well, if it works out then he might be able to put those spaces in the front. However, it may not be enough if he converts the entire building to office. It really comes down to how much the owner wants to convert in this building, which drives the number of parking spaces -- i guess I'm trying to get at what is the total process to be able to put parking spaces in front? it would go back to the landmark commission to seek approval to have that -- and they can approve that, they have the sovereign approval -- they have approval, authority to do that. that's all I have I was asking. Council member shade? is there a difference in parking requirement if it were no instead of lo? well, this is in the cure, the central urban redevelopment boundary, so whether it's lo or no, it would not make a difference on the number of parking spaces required. I'm assuming that the type of office that would go in here would generate a parking requirement of one space for 275 square feet, and that would -- for instance, a real estate office or something like that could go into that location. But the requirement, because it's a secured boundary, is half of that requirement.

Shade: got you. Thank you. council member morrison? guernsey, you said that one of the possibilities is that the landmark commission -- for the landmark commission to approve it, parking in the front yard, so what are their guidelines and how would they make that decision? council member, I'd have to go back in more detail and look at what they would look at on that particular property to give you a full answer. but I would guess -- would it be correct to say that it has something to do with maintaining the historic character?

Guernsey: it would. They would look at the character of that structure, and granted, this lot, like I said, is very small. It's only about 5,400 square feet, so it's it does not even meet the lot size requirement of the current zoning for a single-family.

Do you have any idea if it was originally a larger lot and part of it got sold off to make the parking lot in back?

Guernsey: I do not know. Council member spelman? guernsey, it could be a question for you perez, either way, would it be conceivable for the owner, for it to be rezoned lo-mu-h and converted entirely to office and therefore requiring five space, only two of which are available on sites -- would that be possible for them they could deal with the church, has a parking lot behind on rio grande?

Guernsey: no. The lo zoning does not allow for off-site parking. We had a church 15 years ago, kind of changed our parking regulations regarding off-site parking, which you would need a minimum of go zoning to allow for off-site parking, and both the donor site and the receiving site would both be required to have go or more intensive zoning in order to do that. So simply requesting off-site parking would not be available for this property given the lo designation, and the sf-3 zoning of the church next door. the parking lot behind is actually not adjacent because it's separated by a strip of that sf-3 lot associated with the church playground. So it would be off-site parking? it would be considered off-site parking.

Spelman: okay. And had it backed up on the site question, would that be considered off-site still? it

would have to enter into an agreement with the church, file something that's called a unified development agreement, and actually blend those sites to take advantage of that.

Spelman: okay. There's an instrument for that but that's not the instrument before us here?

Guernsey: that's right. Council would not even be able to consider granting go zoning on the property because it has not been noticed or presented to commission for their consideration.

Spelman: thanks. mayor, I have a question. council member cole. guernsey, I'm still trying to make sure I'm clear on the requirement that the applicant may have to actually go back to the historic commission to actually reconcile the parking issue. Is that what you're suggesting? that's what I'm suggesting, but a lot depends on what they're looking at. I mean, they could go back and then look at trying to maneuver to get more space in the rear to modify the structure in the rear, but right now they only have two spaces available, really, on the property as existing use exists. They could also look at putting parking in the front, but I think if the entire property were converted to office, I still think they would be short of parking if the entire building would be converted, because it's very difficult to get five spaces given that just -- just the area on the site. but the fact that they may have to go back to the historic commission to resolve the parking issue, what impact, one way or the other, should that make on our decision today about granting the lo-mu office designation -- zoning designation? well, certainly looking at issues of parking are within the realm of granting a zoning change. It would have an impact, possibly, on adjacent streets if you were trying to park cars on adjacent streets, even if they were successful in getting a zoning change. Whether they seek a board of adjustment variance or not. In one sense it would be difficult not to consider all the different ramifications of parking on this property. They have allowed under this zoning category 70% impervious cover, so you could not pave the entire property to get parking on this property either, and then there's a maneuverability about how you get into the spaces, so it would be tight to get them in the front yard. You m able to get to at least three spaces fairly easily, but the owner is not obligated to give us a parking layout plan for us to examine to talk about at this time, and as I said before, they could seek a board of adjustment variance. I'm not sure what their chances would be. They have to show hardship a and that would be unique to this property, but that's an opportunity for them, or they could seek purchase of adjacent property and seek rezoning of adjacent property to combine it with this property to provide parking. well, let me ask you this, this way. If we know that a potential zoning designation that we're contemplating is going to require that the applicant go to another board or commission, whether it's the board of adjustment or the historical commission, is there any precedent for the idea that we postpone until they come back or we don't. I don't know if there is a precedent. Like I say, the owner could come back right now and convert something. It would only require one parking space to have an office on this property. As I said before, one parking space is required for each 275 square feet, but it's only half that requirement. But he could convert possibly about 300 square feet of the building, convert it to an office and would have enough parking for a residence, which would only require one, and an office to require one. There was a mention about a home occupation, which has a trip limit of 300 trips -- or it's not 300 -- three trips per day. That trip limitation would not apply to this property. And then they could have an office on the property, granted a small office, that would not require any additional parking beyond what may already exist.

Cole: thank you.

Council member, if i might, I think council member spelman, if you look at the aerial there, that church parking lot does come right to the rear of our site. We have elected to go with the lo zoning, which is the least intensive type of zoning that's available, rather than to go with the go zoning. If in the change of use it becomes prevalent that we need additional parking, then there are those ways in the code such as going to the historic commission and trying to put parking on the site. [One moment, please, for]

Spelman: A moment ago, let me make sure i understood what you said. We could not zone this g.o. Because this is not the issue before us?

That's correct. You could grant a lesser , , which is more intense.

Spelman: This is generally true with zoning cases. We can always back off from the intensity sought by the applicant, we cannot increase it.

Correct. I also want it understood that there is a portion of the church parking lot that comes up to this property that was zoned sf-3. So even if you were to zone , the portion of the church property that's parking lot, is still separated by sf-3 and we would not allow the office use to cross the existing f-3 parking lot to get to the g.o. part. So it would still be not con contiguous and you would still have an off site issue because we wouldn't allow that connection. They wouldn't be able to pave the backyard and access it from the rear yow rezoning the church property.

Spelman: If these guys were to come back at a future date and wanted to -mu-h and came back with a sort of a deal with the church saying they had secured three or five or some number of parking spaces from the church for daytime use, would that require any additional variances or action by any other authority in the city of austin?

It would require site plan approval by staff. It would have to be -- it would be administrative approval. It would be within the distance to allow that, but that parking would be contingent on providing a city a lease agreement and making sure that the hours of the agreement match the hours of the -- if the office use to use that off site parking.

Spelman: Okay. So there would be a means by which they could obtain the on-site parking that they would presumably need if this was converted to an office, but that means it's not available to us tonight.

That's correct. They would have to come back and submit a new zoning case for more intensive zoning.

Spelman: And only way they could have it used as an office is by aadjustment or action by the historic landmark commission and it would roughly change the facade of the house by changing the front yard.

Or by acquiring land adjacent to this property and then rezoning it, if necessary, to enlarge this site. Perhaps the properties to the north that are church owned, properties to the rear that are church zoned,

they could acquire that and then attach it to the site. So it would be contiguous, but if they acquired property to the north or east, it would require a zoning change because those are still SF-3. The property to the south is, but there's a structure there on that property today.

Spelman: Thank you, Greg.

If they needed additional parking. That would be another way that they could go seek it.

Spelman: Mayor, in view of the fact that it would not be possible for the applicant even if they received the zoning they're seeking here to actually use that zoning without action by somebody else, I move to deny.

Mayor Leffingwell: Motion to deny the request by councilmember Spelman. Seconded by councilmember Morrison. Any further discussion? Councilmember Morrison.

Morrison: I very much appreciate councilmember Spelman's point, but I also wanted to speak to the Thompson I think was speaking about this being a blended street. And I agree wholeheartedly it's a blended street. I'm not willing to accept the assumption that -- and not only is it a blended street, but we're going to have it transition to commercial. We have planning going on downtown, and so I think that there's a lot to take into consideration. I also think we want to keep in mind that we're not just talking about structures, although I think that with zoning the structure is very much at risk because of the parking issue. But residential or having a blended street brings life to the street in the evening, in addition to the parking issues. And having the street all parked up. So it's really more -- it's about community that's there as well as the structure. So with that I just wanted to say that we have a lot of considerations for my decision and I'm definitely going to support the motion.

Mayor Leffingwell: Anyone else? All in favor of the motion, say aye. Any opposed say no.

No.

Mayor Leffingwell: So councilmember Martinez, Shade and Cole voting no. The motion to deny passes on a vote of four-three.

Mayor, could I ask the council to reconsider their decision and allow me opportunity to go back to the commission and request zoning so perhaps we could work an agreement and not have to wait the 18 month time period?

Mayor Leffingwell: You can ask.

I just did. Thank you, sir.

Mayor Leffingwell: Is there any member of the council that's interested in making a motion to reconsider? And I would note that councilmembers Martinez, Shade and Cole are not eligible to make

that motion. Hearing none, not so, mr. bennett.

Mayor and council, that concludes the zoning items this evening.

Mayor Leffingwell: 78.

Pardon me, we have one more. george adams will present the brentwood neighborhood planning area.

Evening, mayor and council. I'm george adams with the planning and development review department. Item 78 is coning case c-14-2009-0055, the brentwood neighborhood planning area vertical mixed use opt in, opt out application. Very briefly, the boundaries of the brentwood neighborhood planning area are justin lane on the north, north lamar boulevard on the east, 45th street on the south, and burnet road on the west. The brentwood planning area has two core transit corridors. This is burnet road and north lamar boulevard. The vmu overlay district along these roadways 29 acres on 20 tracts. The brentwood neighborhood planning contact team recommended the following real toif it vertical mixed to apply all vmu building standards, including dimensional standards, the parking reduction and additional uses in office districts to tracts 1 through 3, 11, 13 through 16, and 18 through 21. These tracts total approximately 49.69 acres. To apply the dimensional standards an additional ground floor uses in office zoning districts, but not the park reduction to tracts 4 through 10. These tracts comprise a total of 18.53 acres. To exclude tract 17 from the vmu overlay district. And finally, to apply an affordability level of 60% of median family income for affordable rental units in vmu buildings. And finally, the planning commission concurred with all the neighborhood recommendations at their AUGUST 11th, 2009 MEETING. This case is ready for all three readings and I believe there are several folks who are signed up to speak on it. I'd be glad to answer any questions.

Mayor Leffingwell: Questions for staff? We can hear from the applicant first. The applicant is the city. We have heard from the city. We have one speaker signed up for, only if there are questions. Richard brock. And three speakers signed up in opposition. So the first speaker is barbara macarthur. Following barbara is john thurston. John, are you here? Bob libold.

Hi, my name is barbara macarthur and I've lived in this neighborhood for 30 years. I'm not really opposed to vmu, but what I'm opposed to is the relaxation of the development site standards. As you know, most of this property on burnet road is zoned cs, which has a height restriction of 60 feet and restriction of two to one. If we remove the f.a.r. Restriction on this property, then we will see of four to five right next to residential uses. And also when I reviewed the vmu ordinance, I noticed that there are no design standards at all for the rear of these properties. There's lots of standards for the street front, but none for the rear, which faces the residences. Because all the surrounding much more affluent areas are opting out or removing most of their vmu property, there will be intense pressure to develop this area. I'm a mathematician, and so I calculated that accepting this you would be adding -- you could be adding 10,825 square foot apartment buildings or 10 times the density of the triangle on the edges of the neighborhood. And I wanted to bring out one specific example. There's a property on the street I live on that's almost two and a half acres. It has only 50 feet of frontage on burnet road. Following the math and the 60-foot height limitation, you could develop this property at almost half a million square feet.

Now, if I say I'm only going to develop it 50% of what it could be, I would still be placing 283 units on this property. This property which has most of its access to two small residential streets that have no access to an arterial, if these people 5 car trips a day, you would be putting 2400 cars on streets that don't do anywhere. -- That don't go anywhere. So what I'm asking you to do is to remove the relaxed dimensions, specifically from the sites 4 through 10 that cover the angled streets that come off of burnet road because that is where the serious problems are. I'd like you to enforce compatibility standards and I'd like you to access parking garage exits on to small residential streets. Thank you very much.

Mayor Leffingwell: Thank you. Councilmember morrison.

Morrison: Excuse me, ma'am. Could I ask you a question? The one property you were talking about where there could be a half a million square feet or whatever, which property was that?

It's the property where the antique warehouse is. There's six months that are held by one person and they add up to 2.4 acres.

Morrison: Is that on lamar?

No, it's on the burnet side. It's only got 50 feet of frontage on burnet. Most of the frontage, it backs to a residential street and it flows down to a residential street.

Morrison: And how many acres did you say that property was?

2.4.

Could we see it on a map? Is it toward the southern end?

Yeah, it's toward the southern end.

Morrison: We have that marked with all bonuses at that.

It's number 4. It's the southern part of number 4. And well, number 5. Number 5 is the one that extends into the residential area. That's the tract.

Morrison: Okay. I'll look at it on the map. Thank you.

Cole: Excuse me, I had a couple of questions.

Mayor Leffingwell: Councilmember cole.

Cole: You talked about the need to relax the site standards. I'm just trying to get you to --

no, I want the removal of the relaxed site standards. It's really weird, the way the opt in, opt out is

worded, when you accept the site standards, it means you're accepting relaxed development standards. And I don't want the relaxed development standards accepted because it removes setbacks and floor to area ratios and building coverage limits. And I think that this would be too much. I support vmu, but not at this level. This is downtown level vmu. I know they're starting to call this area -- someone just told me it's nobu, like south congress.

Cole: I was trying to make sure we were clear. I think you asked about four things and one of them was the relaxed site standards and another one had to do with enforcing compatibility.

Right.

Cole: And what were the other two?

The other two things i was asking about is just to limit the access of parking garages to these small residential streets. Because when you don't have access to burnet or lamar, you're going to pour these on to streets, thousand foot long streets.

Cole: Okay. Thank you.

Mayor Leffingwell: Is john thurston here? John thurston? Bob libold. And so that's all the speakers signed up against. So any rebuttal from staff?

Mayor and council, not so much a rebuttal, just to respond to some of the comments. Compatibility does still apply to vmu. There's no relaxation of the compatibility standards that are part of this process. Just a few other point. The base district height limits, the impervious cover limits continue to apply regardless, so there is -- there is still a building envelope that is imposed on a site. The basic incentive is that there's the ability to potentially provide more residential density within that envelope than you might be able to do without the relaxation of the standards. There was a mention of the rear design standards and the speaker is correct, there are -- there's been a lot of discussion during the vmu process about rear side design standards. There are some that are part of subchapter e. They deal primarily with glazing, exterior lighting, but there are not the types of design standards that some neighborhoods would like to see as part of this effort. There's only been a lot of discussion about amendments to put those into place, but that does not exist at this time.

Mayor Leffingwell: Okay. I have a question for you. In looking at the motion sheet, it's hard to read all of this -- all the blocks in here, but it looks to me like for motions 1, 2, 3 and 4, the neighborhood recommendation and the planning commission recommendation are identical.

That's correct.

Mayor Leffingwell: Okay.

Yes.

Mayor Leffingwell: Councilmember shade, did you have a question?

Did we hear from the neighborhood planning contact team and I just zoned out for a minute? Are we here?

I believe there Brock is here, yes.

Shade: You haven't spoken yet. Can you kind of explain how this -- how this is --, I apologize. When I signed up I signed up only if you had questions. And it was also my understanding that this might go on consent. I was trying to make the evening brief.

Shade: No. I was just curious because there's obviously some dissension here and I would love to get the perspective of sort of the process and what's going on here.

My name is Richard Brock, I am the chair of Brentwood neighborhood planning contact team. And as it's been pointed out, you know, our team brought these recommendations forward after weighing in on the opt in, opt out process. Some of the concerns that were voiced by Barbara this evening were concerns that came up in our meetings and were discussed at great length. And ultimately the team I think had a lot of buy-in for the whole concept of vertical mixed use and recognized that the dimensional standards were part of what VMU essentially is. So what I wanted to do was just make sure that you understood that there was a process that we went through that included notification and trying to get as much participation as we could. I think part of the problem is this happened over two years ago and we're only now coming into get the stamp for work we did two years ago. I just wanted everyone here to know or be assured that it was an open process that everyone's input was welcome and considered, but at the end of the day the prevailing will of the team was to give this a shot. I think one of the things that factored in for us as a team was that so much of the property in these two corridors is already zoned CS. And we recognized that it was that base zoning that was going to drive some of the height concerns. And certainly drives some of the concerns about use. So what we saw this as was perhaps an opportunity to -- we saw the incentives as a way to possibly change the look of the street. We already had the CS zoning. Neighbors have been dealing with that for years. And you know, this -- this hopefully will change it for the better. I understand some of the concerns that have been voiced, that it may change it for the worse, but I bought into the whole concept that we got from staff all along the way, which is the compatibility standards will control. So whatever it says in the VMU ordinance, if you're within I believe it was -- was it 540 feet? I hope I'm not misquoting that. If it's within so many feet of SF-3 property, then those compatibility standards control. And we felt like that was adequate protection. I don't want to ramble on any longer than I already have. I just wanted to say that we're proud of the work we did on the team. I think the planning commission, their approval of our application also speaks volumes. And although I sympathize with any neighbor that's just trying to protect what they know or the integrity of their street, all those concerns, I understand that, but I just wanted to be sure that you understood that, you know, the team's work was done in the light of day and that that application does in fact represent our work and we stand behind it as a team. And there is also significant overlap

between the membership of that planning contact team and the Brentwood steering committee. So there's a tacit approval there. And the fact that you don't have an army of people here in opposition I hope means something to you also. If you don't have any more questions, that's all I had.

Mayor Leffingwell: Councilmember Morrison.

Morrison: Thanks and thanks for all your work on this. I do have a question and I realize we're in probably a pretty interesting situation that you did this two years ago and now here we are I guess I'm not quite sure. I guess maybe we just have them backed up in terms of processing them and all. In the interim what I believe was referred to in the comments, the conversation did come up about what happens when you have the garages from your VMU buildings backing up into the single-family. I can see where that maybe. You've got single-family actually sharing property lines, I guess.

That would be true on Burnet. It will also be true on Lamar.

You're right. We do have compatibility standards mentioned. But the conversation I think that's happened in the interim, those two years came up with the Heritage Neighborhood Association because they actually had what was essentially a VMU building built and it was startling to be looking at the garage. So even though they satisfied the compatibility standards, I think there might actually be a little more. It's just a broader conversation. Did any of that kind of conversation happen at your neighborhood plan -- the VMU meetings?

Well, certainly not exactly what you just said because as you pointed out, that's happened since we had our meetings. But the way when those concerns came up, one of the things that was discussed was people would probably be very concerned to see what could already be built. Burnet Road hasn't -- it's been, what, decades since it's been developed? You're seeing one and maybe two-story structures there. People are going to freak out no matter what you build and that's whether you do it without changing a thing, just leaving that base zoning of CS, or if you go ahead and approve the VMU ordinance. You're absolutely right. That's going to be unsettling. I don't know what kind of gulf exists between what you could already do and what you will be able to do because we don't have an exact model of both. It will certainly be different. And I can only tell you the work that we did and why we did it. I wouldn't object to closer looks at -- certainly we wouldn't be against looking at those dimensional standards and how they affect adjacent neighbors, but at the time, you know, that was all part of the package. If you had said, for instance, that one option we might have had would be to say that you have to put any structure at least 35 feet from a property line with an SF-3 property, we might have wholeheartedly voted yes for that. But the way we saw it was that this was kind of a package. We could opt out properties, but we couldn't just say oh, we're opting out of those standards. Those standards are essentially what VMU is. If any more work is done to alter those, we would definitely -- I can't predict what the other team members would say, but I think they would appreciate that.

Morrison: Well, you did have the option to opt out of the bonus density standards like the no limit on F.A.R. and all that. You're aware of that, aren't you?

Yes, but our understanding was that to do that we were taking that property out of the -- off of the process. So I -- I hate to think the whole team had a misunderstanding.

Morrison: I'm sure you didn't. Because I know you guys know what you're doing and know how to read code and all that stuff. The other thing I want to mention is probably, you know, we're hoping that there will be neighborhood site design standards developed which would then presumably apply to future development. So that's fine. Thank you very much for your work. I know that was a lot of hard work to do the --

I'm sorry if I seem somewhat unprepared tonight. Like I said, I thought it was all going on consent.

Morrison: Thank you.

Mayor Leffingwell: I'd like to follow up on that question with staff. It's my understanding you can opt out of the standards and adopt vmu and opt out of the standards.

That's correct.

Mayor Leffingwell: That's correct. Okay. Anything further? So I believe that we don't have anyone else signed up to speak. Questions or a motion? We have a motion sheet here. I believe it is possible to take all four motions at once if it's the same recommendation, if that's your choice.

That's correct, mayor. I can walk through those motions if you would like.

Mayor Leffingwell: Okay. Go ahead.

Motion 1 is to approve the vmu building standards, including dimensional standards, parking reduction and additional uses in office districts for tracts 1 through 3, 11, 13 through 16 and 18 through 21. Motion 2 is to approve vmu building standards including dimensional standards and additional uses and office districts, but opting out of the parking reduction for tracts 4 through 10. Motion three is to exclude tract 17 from the vmu overlay district and motion 4 it to approve an affordability level of 60% of the median family income for 10% of the units and a vertical mixed use building.

Mayor Leffingwell: Again, we all have that motion sheet with the proposed action that you just heard, plus the neighborhood recommendation on each motion, staff comments and the planning commission recommendation. And this is ready for first reading only.

Actually, mayor, it can be taken on all three readings if that's the council's desire.

Okay. Thank you. Mayor pro tem?

Martinez: [Inaudible].

Mayor Leffingwell: Mayor pro tem moves to close the public hearing and approve motions 1 through 4 on all three readings. Is that the planning commission recommendation?

Martinez: Whatever he just read.

Mayor Leffingwell: He read the proposed action. The planning commission and the neighborhood recommendation are the same on all four.

Martinez: Okay. Planning commission recommendation.

Mayor Leffingwell: Okay. So is there a second to that? Second by councilmember riley. Any discussion? Councilmember cole.

Cole: I just want to say that I certainly macarthur's comments, and especially the fact that councilmember morrison has said that we will step up and try to do something about rear design standards. Or at least talk about it some more in our committee recognizing that there's a significant amount of population that is really disturbed by that.

Mayor Leffingwell: Could you have those ready by the 24th of september? [Laughter]

Cole: I meant her and councilmember riley. [Laughter]

Mayor Leffingwell: All right. It's getting late. Any scurtsdz discussion? -- Any further discussion? All in favor say aye? Any opposed? That f passes on a vote of six to zero with councilmember spelman off the dais.

Thank you, mayor.

Mayor Leffingwell: So council, without objection, we have some folks with special needs here that are facing a time constraint, so I would like to take up the final item, final public hearing item number 89 to accommodate them, unless there's an objection. Okay. Item number 89 is a public hearing to receive public comment on the city's -- city of austin fiscal year 2009-2010 proposed budget. And I think I've got a script here somewhere for that. Have you got one for me? We'll go ahead and start the public hearing. And we'll go in the order of people who are signed up, since there's really not a for or against. First speaker is sam archer. Sam archer. Second speaker is gavino fernandez. Gavino fernandez. And marcello tafuro is signed up to donate time to gavino. Is he here? Next speaker is jennifer mcphail with time donated from david witte. So you have six minutes.

Thank you. I'm jennifer mcphail with adapt of texas. We want to go on record again as saying that we support the proposed budget for sidewalks funding. We have some larger projects that are very much in need of being addressed this year, like north lamar and south congress where work needs to be done. Quite a bit of work actually. So we're supportive of that, but I wanted to spend the majority of my time

tonight speaking about the need for affordable, accessible, integrated housing.

Recommendation. And this is ready for first reading only.

Actually, mayor, it can be taken on all three readings if that's the council's desire.

Okay. Thank you. Mayor pro tem?

Martinez: [Inaudible].

Mayor Leffingwell: Mayor pro tem moves to close the public hearing and approve motions 1 through 4 on all three readings. Is that the planning commission recommendation?

Martinez: Whatever he just read.

Mayor Leffingwell: He read the proposed action. The planning commission and the neighborhood recommendation are the same on all four.

Martinez: Okay. Planning commission recommendation.

Mayor Leffingwell: Okay. So is there a second to that? Second by councilmember riley. Any discussion? Councilmember cole.

Cole: I just want to say that I certainly macarthur's comments, and especially the fact that councilmember morrison has said that we will step up and try to do something about rear design standards. Or at least talk about it some more in our committee recognizing that there's a significant amount of population that is really disturbed by that.

Mayor Leffingwell: Could you have those ready by the 24th of september? [Laughter]

Cole: I meant her and councilmember riley. [Laughter]

Mayor Leffingwell: All right. It's getting late. Any scurtsdz discussion? -- Any further discussion? All in favor say aye? Any opposed? That f passes on a vote of six to zero with councilmember spelman off the dais.

Thank you, mayor.

Mayor Leffingwell: So council, without objection, we have some folks with special needs here that are facing a time constraint, so I would like to take up the final item, final public hearing item number 89 to accommodate them, unless there's an objection. Okay. Item number 89 is a public hearing to receive public comment on the city's -- city of austin fiscal year 2009-2010 proposed budget. And I think I've got a script here somewhere for that. Have you got one for me? We'll go ahead and start the public hearing.

And we'll go in the order of people who are signed up, since there's really not a for or against. First speaker is sam archer. Sam archer. Second speaker is gavino fernandez. Gavino fernandez. And marcello tafuro is signed up to donate time to gavino. Is he here? Next speaker is jennifer mcphail with time donated from david witte. So you have six minutes.

Thank you. I'm jennifer mcphail with adapt of texas. We want to go on record again as saying that we support the proposed budget for sidewalks funding. We have some larger projects that are very much in need of being addressed this year, like north lamar and south congress where work needs to be done. Quite a bit of work actually. So we're supportive of that, but I wanted to spend the majority of my time tonight speaking about the need for affordable, accessible, integrated housing. And for that to be promoted in any and all future consolidated plans and anything that y'all do. I had a brief conversation with the director of neighborhood housing and community development this evening out in the hall, and she felt blindsided that adapt would be wanting to promote incidentvaton as opposed to segregation and institutions for people with disabilities. And I want to make sure that everyone within the sound of my voice standards that we have always been about integrating people in the community and that if you were unaware of that fact, it's unfortunate because I've been a member of adapt for 20 years, and no matter what we spoke about, whether it's local, federal or state, we've always talked about the need for integrating people in the community and we always will. And that is fundamental. No matter what you do, you should be promoting choice for people with disabilities. We don't have choices right now. There is an institutional bias in this country that says if you need long-term services, someone like myself who has help from somebody coming in everyday to help me get out of bed, get dressed and get on with my life, if I haven't have that service I wouldn't be able to function. I would not be able to volunteer my time for the city in a nursing home. I would not have the individual freedom to choose who I associate with, what i eat, how I address, when i get up, when I go to bed. You don't understand why we're opposed to not giving people fundamental choice in public policy? Then I don't really understand why you're in a position of authority. It's very basic and simple. Integration is good, segregation is bad. It's always been that way, it always will be that way. Now, specific things that you can do to help our cause is to continue funding the component of oversight and enforcement that was in the voluntary compliance agreement. I think it was \$500,000 that was available in the budget to do that. And I believe that just about every time that you funded it, it was contracted out. So it's not an undue burden for s. If it is, maybe you need to change staff. It's too important for people with disabilities to have choice to reach their full potential, not to do these types of things. In fact, we shouldn't be just defending the things that we've done in the past. We should be expanding those things for even greater things in the future. Now, if you look at the consolidated plan, you will see that somebody just basically cut and paste nursing home addresses. We can do better than that. We have before and we should again. I really can't tell you how offensive it is to hear someone say, I don't understand what the issue is. Visit one. One time visit a nursing home and you will see -- you can smell it before you walk into some of them what the issue is. In packet of information that you have this evening, you will find that section -- the named nurses homes in the consolidated plan. I've brought that for you so that it's clear that it's in your plan. It's not hidden, it's very visible. You can't miss it. Behind that is the commitment from the obama administration that this be the year of community living. So not only are you going against the grain of everything that adapt stands for, you're undermining federal efforts in washington. We've worked too hard for too long to get this far. And

the fact that I'm expendable is offensive. If you're outraged from the fact that people blow it off and say that they're blindsided, there's nothing really that I can say. There's nothing I can do and maybe the only way to further our issues is to be more confrontational. That would be unfortunate. But a part of me would enjoy it. Sometimes your friends have a lot more work than your enemies in politics anyway. And frankly, I'm sick of it. We should be talking about expansive efforts for the future, but yet here we are defending the things that we've done in the past. I mean, councilmember spelman can tell you when he comes back how hard it was to get that voluntary compliance put in place. All the work that we've done, thousands of hours of our lives just blown off because someone else was in a hurry. What has to happen before it's an issue for you? Who has to die before it's an issue? How many expo says do you have to read about in the newspaper before you realize that shutting people away is not the way to go? I'm not an inconvenience for society. I'm not a burden. I'm a woman! A flesh and blood woman who has the individual right in this country. And no one has the right to take that away. [Buzzer sounds] we all have the right to live where we choose. And when that's taken away, I'm not the only one who loses. Every one of you do too. The fact that we were supposed to give someone a courtesy call that our opposition was coming is ridiculous. If you didn't know that we were going to oppose this, maybe you don't belong in politics.

Mayor Leffingwell: Excuse me. Would someone like to donate more time to jennifer?

David -- you've already used your time, david.

It's fine. Someone else can come up. You get the basic gist of what I'm saying.

Mayor Leffingwell: I do.

It's wrong.

Mayor Leffingwell: Thank you, jennifer.

One more piece. Veterans are coming home, disabled. And they won't have a home to go to. We deserve better than that.

Mayor Leffingwell: I hear you. [Applause] mary steele.

Hi. My name is mary steele from adapt. I would like to ask your permission to maybe speak for four minutes if I need it? Not a second more, maybe not even the four.

Mayor Leffingwell: Without objection, you can speak for four minutes.

Okay. Now I can bless you. Thank you. And I did pray that god, the same god who created all of us, who created everything, who put you in the place to govern us and our wonderful city will give you all the knowledge and the -- everything you need to govern us because I know that you already have it because if you didn't have it, god wouldn't have put you here. And I just thank him for that. Now I want

to get into something that's -- as you can hear with jennifer, it's kind of -- it's kind of got my blood boiling. When I found out that for me, because I'm in a wheelchair, because I beat death, that for me affordable, accessible housing is in a rest home or what I would like to call a mausoleum. When you think about a mausoleum, that's where they put dead people. And that's where they want to put me, just because I'm in a wheelchair? I've got an education. I've got a mouth. I think you've heard my mouth a few times. I think I can make people understand me. I think I have something to give. But when I looked at that paper that jennifer gave me and you all have it too of all the places where I can go and live, be affordable and accessible, and it's a rest home, what was it a whole page of rest homes that I can -- I know they call them nursing homes, but I don't need a nurse. I mean, what am I going to do with a nurse? My husband takes care of me, I take care of him. They put me in a rest home, then what happens, they don't have -- they don't have rest homes for husbands and wives? They have it for men and women. We've been here 16 years, but we would be separated because we couldn't be together. Because we're disabled they decided that we don't need each other. There's something wrong with that. I mean, I always thought that america was the best place on earth, and now it kind of scares me that america may be the best place on earth because for a country to want to not just send me off, but there is a couple million me out there. They just want to push me away and lock me up because that I embarrassed of me? My father had a brother, he was the first child born way back in the early 20's and he was the first child and my grandmother dropped him. So their solution for them was they just go in another room and kept him in there. And I was talking to a man one day who knew the family and said they all grew up together. He knew about jb and the others, but he didn't know about kenneth. And I realized that they just pushed kenneth up and locked him up until he died at the age of 19. He would have lived to be a lot older if he hadn't been locked up. If you take one of us and you put us in a rest home, we're going to live an average of 30 to 90 days. Not years. 30 To 90 days is the life-span for someone locked up in a mausoleum. but you can hear jennifer, she's not ready to die. You can't show one disabled person who is ready to die. We have something to give. But you want to lock us up? We haven't committed a crime. You lock up prisoners. Thank you. Any questions? I would like to show you my new wheelchair. Really nice, right? Took me two years to get it. And I finally got it, drove it on montopolis one day, lost two wheels because of the sidewalk. The sidewalk killed my brand new wheelchair.

Mayor Leffingwell: Looks like you got a new wax job on it.

No. It's still new. It's just that I drove it down the street and et it's messed up two times.

Mayor Leffingwell: Sorry, mary.

So think about it.

Mayor Leffingwell: William betts.

I'm william betts with adapt. And I'm neutral because i support the sidewalks, what they're going to do with the sidewalks funding, the a.d.a. And with the sidewalks you have people who use it, the housing, integration housing. Community choice, the shirts I have on. We have a big nationwide thing about it

trying to get people free. Obama was with us. We met him at the white house april the 27th and he changed his mind, he said no. We're going to get this passed because we have a lot of senators and governors for us. What we need to do to have this pass, you have to have housing, integrated housing. Now, the oversight that she was -- that jennifer talked about earlier, when they did it, they found that 70% was not applying, that it was wrong, that the housing wasn't that handicapped accessible that I couldn't get to it. So the oversight does need to be taken care of. It's just that housing is important. Nursing homes, you talk about people dying. They're not joking. That's a study about 90 days is what you live. Ted kennedy, he was ready to go. He gave up his life. He was ready to go. I mean, -- there was one gay' pbs two months ago they said the best thing for him to do was put him in a nursing home and they didn't do that because they knew he would die in a nursing home. Two years later he was playing in a band again in new york. That was someone that they said he was invalid, leave him alone and let the government take care of him. And the wife wouldn't let it go. But anyway, the integrated housing is all I have to say. Would you please make sure that we get funding for the housing and taken care of for the oversight? Thank you.

Mayor Leffingwell: Thank you, william. Next speaker is debbie russell. You've been up here -- this is your third time today? Almost as much as me. [Laughter]

I think it was three times last week as well or two weeks ago. I'm tired. I'm just going to raise some questions. In thinking about the budget overall we're hearing a lot of different issues being raised. We're hearing about the water treatment plant, whether we need it yet, whether we can approach things from a sustainable solution using conservation to really not only save ourselves money in the short-term, but perhaps in the long run. There are also issues that you will hear and have heard already about we are -- the taxpayers, the residential taxpayers are subsidizing large commercial development. And bryan will tell you more about that. But when we start looking at some of the more -- some of the pieces of the budget that our -- that are of special interest to the taxpayers because of the necessity to have them, but also in terms of how much we spend and what value we get out of the money that goes in. I really want to invite you all to look at the austin post. I just came upon this the other day. And I don't know who maurus is, but he's my new best friend. He's written two pieces now. There will be three in the series. And the first one is about the budget overall and who the winners and loses are. He talks about when we looked at -- when we look at this fiscal year's budget, the expected shortfall was 6% of the consolidated budget, but that there are 23 departments or services 62% of the budget. Essentially what it's saying is that the budget cuts are not being spread out evenly. That effectively for the departments that are facing the budget cuts, the effective reduction is a 4% and there's a chart here of the winners and the losers by department that I think you should take a look at. More in tune -- more to the point that I usually speak to, the police department. He's raised many, many points. I think that ought to be considered in this year's budget when we're looking at things. I do want to remind council in the next few months we'll be seeing some items that they're bringing forward that will be approvals of grants, federal grant monies for some great equipment and new databases and a fusion center and helicopters, but remember that we will bear this cost in a few years' time. So we'll look down the road when you consider that. I want to also point out if you don't know one hour of helicopter time is 7400 or so dollars. And we have been recently using them to catch credit card thieves and car thieves and not violent people. [Buzzer sounds] so please look at this. We have the largest in texas. We're at the high end by

the police department for the funding overall. And of course, we're by far at the highest end. If you remember our audit last year --

Mayor Leffingwell: Thank you, ms. russell.

Thank you.

Mayor Leffingwell: John covas. [Applause] john covas. Ela valva. Dare onstefona. Audrey steiner. Is audrey steiner here? Nini francios? Tony englebrek? Rob wilson? Rob wilson, okay.

Late night. I am under contract for my first house ever. I'm really excited about it. The issue, though, is that the tax rate proposal increases that y'all are considering for the new budget is kind of one heck of a house warming gift. You know, in this economy especially I heard on the news recently that the city has discovered that since the property values are recovering that the shortfall is a lot less than expected. I would really like to see the proposal go down. And we elect y'all to do the hard job. It's easy to raise taxes. It's a quick thing to do. It's much harder to say this special group or this nonessential area, we need to cut it back or cut it out temporarily. There's things like rent and utilities that we all have to pay regardless of our income. And then there's things we can cut out like cable or movies or dining out or whatever. And whenever there's an issue about tax raises and everything, it's we've got to protect the police and fire department coverage so we can cover basic services. That's fine. But there are non-basic services that we can look at and that's what we've hired you to look at. Leffingwell, when the election was coming up last year, I asked a friend of mine in commercial real estate who he recommended, and -- because I was concerned one of your opponents. He said I'm willing to go with Lee because when I talk to him and he can't help me out, he will say it to my face. He won't say yes to my face and change. It was because of his assurance of your integrity that I voted for you. So my question is are you going to do the harder things of looking through the budget or are you going to do the easy thing and raise the property taxes? Thank you very much. Appreciate it.

Mayor Leffingwell: Thank you, rob. [Applause] next is bryan rogers. And several people have donated time. Travis snavelly. Anne dellano. And Lee Lateff. Okay. So bryan, you have 12 minutes.

Very few people seem to show up and try to give the city money, and that's one of the things I'm always trying to do is find a way to improve your budget. The people tell me say bryan, if you show them where the money is, they're liable to just waste it. So what I first want to do, I want to cuss ta gate you guys a bit on the budget and so let me roll along here. The inflation that we're experiencing this year is the biggest drop since 1950. 1 percent year to date. If you use the inflation calculator, since the year 2000, we're -- inflation has been 25% over the nine or 10 years. But try telling that to this woman here in east austin. I blacked out her name. She's retired, but been in the same house since 1956. Her city taxes since 2000 have gone up 450%. Okay. That means -- that's increased 450%. That's nowhere near inflation. This is another woman, 84 years old, fixed income from northwest hills, the same thing. She's 148 percent in 10 years. This fellow here is myself. My property tax, city portion only, 113 percent. I can afford it. Here's roy butler, city taxes increased only 65%. So for some reason maybe it's just the fluke of mathematics, but the people who can least afford it seem to get hit the hardest. So what I want to ask

you, are we getting 450% increase in city services? Is that what this first lady is getting? You subtract inflation. Is she getting 425% better city services? martinson getting 148% better amenities? Did I get 110% increase in public safety? So my feeling is a lot of this money goes to bigger staff, more bloated budgets, more protected departments. And really in the big plans people aren't doing the hard work of finding -- of cutting. That's what we're asking. So let's go with -- I'm going to find you some money here. Here's is 2301 south fifth street. I've shown a few of you this. This is land that sold in 2007 for 1.6 million. This is part of the land, two acres cut off the green pastures restaurant. A million six is on the tax rolls for 174,000. That's 10.5% of the market. We're missing 1.75 million. That's bad, right? It's not as bad as look, there's a beautiful condo complex built on it. Leeds certified, high end, and where is it? It's not on the tax rolls. Improvement value zero. So I went to the tcad and i said hey, did you know there's a building built on that? Sir, we have no record of any building permit. Well, we'll get to that in a minute. Really there's no record of sales price and there's no record of a building permit. There's some money for you, folks. Here's how they shu be able to find the money is they can go online and look and see what -- there's a building permit and they can figure it out. Okay. The domain. We're all familiar with the domain. This isn't the retail portion, this is the 133 acres of the i.b.m. Campus. A million square feet of commercial, you may recognize some of these, building number 5 is xo communications, these are really well done. There's -- let me go back and forth. There's a million square feet of improvements. One million square feet. And you see all these different buildings. Building 4, 41, 5, #, 42. But the improvement value is only two and a half million dollars. Okay. Let's lo at it a little bit closer. I went down there and I said I know for a fact that building number 5 is a fine building. And they said it's on there. It's valued at \$16 million. Okay. If it's \$16 million, show me the rest of them. So building 1 and 2 were valued at 17 and 4. So it comes up with 41 million dollars' worth of buildings. But they add up 41 and you get to two and a half. That's some kind of magic. So where's the \$40 million? It's not just this year, it was also last year. So I don't think the city's wealthy enough to just let this kind of money just go by. I'm going to show you how do you get the money? I'm going to tellou four ways. One of them is the city does appraisals much that's how i did my first report. The city had over 600 appraisals since jan of '06. Within each appraisal there's four to 10 sales comps that you can pull out and give to tcad. Now, it's not done -- you would think that all the taxing entities between the city, the county and the school districts, would feed the information to tcad so they could do a better jb, but they're not. That's one thing. Give them all the appraisals. Number two, building starts and permanents should be reported to tcad. The austinian, the chief appraiser said it's 41% complete. Well, 41% complete and it's -- the building permit is \$140 million, so that means it should be sitting at just improvement alone at 57 million instead of the improvements at 19 million. So 57 minus 19, so we're missing another \$40 million. I don't think we can afford it. So here's another idea. There's six billion in totally exempt property in the central texan. Six billion. You look at the very bottom category, category x, totally exempt property. There's 6,590 properties totaling \$6.3 billion. My guess is some of those shouldn't be there. It wouldn't take long to go through there and find more money. Okay. That's the last thing i think is quite clever. When you buy a piece of property, the tcad will send you a piece of paper that says hey, how much did you pay for this property? And what do you do? You go I'm not telling you and you though it away. Why don't you send one to the seller? They should spend an extra 50 cents, send a disclosure request to the seller because a lot of times there's no love lost between the buyer and the seller at the closing table and the seller is probably going to tell you what the property sold for. That's a much easier way. I think the seller would

be eager to give up the buyer. So I found you some more money, but you know, what we have, we've reached the tipping point. We all know sales tax growth is not going to save us, not any time soon. The property appreciation isn't going to happen. You guys have presented us with another spending budget. I hear it it's like seven percent higher. Is that it? Higher than last year? So you know, it's the -- you can't do it. It's okay if you let people go from our perspective. Maybe -- in this building it's hard to do it because you're with them everyday, but we have to live within our means as citizens, and we hope that you guys respect that and living within -- use our means to define how the city budget should be. Thank you. [Applause] councilmember spelman.

Spelman: I would like to ask you a question if you could. You may not know the answer, and maybe a manager knows the answer. You're here, so I'll ask you. It looks like you've got a big condo complex on south fifth street. Is that a condo complex?

It's a condo complex. It's nothing to do with the owners of the building. They skated by.

Spelman: I was going to say, I don't want to betray my ignorance. Who would be the -- the property tax burden would be born by the individual owners of the complex units, woud that be right?

Right. So this property -- I think it became -- it was probably finished in march. So once these properties -- once the condo units sell and they're logged, I'm sure tcad will pick up on them. But as of january one this building was probably 95% complete and it was an extra 10 or 15 million dollars' worth of valuation that we could have gotten ahold of.

Spelman: Okay. So they won't be bearing any property tax burden at all during this year.

This year.

Spelman: Next december 31st they'll be owing.

Come january 1 then hopefully the tcad will have picked up on it and it will show up and each individual condo will be assigned a tax parcel number, I'm sure. So I don't know why it hadn't been done yet. Usually they put a condo regime on fairly early and it gets set up. Like the austin tonian already has these condo is individually taxed right now. Probably a certain wholesale rate for the owner. spell okay. Okay.

Spelman: Okay. I'm ambivalent on that question. The next case you gave us was the domain. Was that the same situation, it was completed during the course the year and hadn't been assigned a value?

No, not at all. Some of these were renovated in the early 2000. They've been leased out. No, what -- when I went down and talked to the appraisal district, they said, well, bryan, you know, when a building is empty -- because some of them are in various stages of renovation. Some of them aren't. Actually, a lot of them are leased out. If a building is empty it has no value. I go what? He said yeah. If it has not leased up, it has no value. I said that's not true because there will be a lease and it has residual value.

It's a leasing risk. So it just didn't make any sense. I think what they may have done is combine the whole property as one profit and loss and then beat down tax to some low rate. It doesn't make any sense to me. I was at the comptroller's office and I showed them this one. I spent an hour and a half with four of the top people at the comptroller's office saying what can we do? Can we do a performance audit? What would happen? I showed them this and they said a performance audit would pick that up. They recognized that domain issue as a problem. They all laughed about it. It wouldn't pass any kind of comptroller performance audit muster at all.

Spelman: That gives us another instrument at least conceptually. It's outside our individual control, but it gives us something else to work with.

It is, but the city -- the only changes that could be made at the appraisal district, I mean, I asked them about a performance audit. Wife been pushing let's do a performance audit. They said it's going to cost the city. It may cost them six figures to do a performance audit, to do all the down properties. So they charged constituent. They do the performance audit and then they turn around and hand you the results. And say here, you've got a problem. I said you mean the comptroller doesn't sanction anybody? The comptroller doesn't whack anybody with this? They said no, we just turn it back to you and say you've got a problem. We know that. Really this whole responsibility is in y'all's lap because you and the other taxing entities because this body appoints two of the seven appraisal board members. So they said what you need to have is an aggressive appraisal board and a good chief appraiser. And then with some of the other measures about property and getting it properly -- the disclosure and some of the other building permit stuff that I talked about. I think you will have to -- you can't just wait every year for the certified tax roll to come in. You have to take -- you have to be proactive and send them realtime building permits, etcetera.

Spelman: Great. Thank you very much. Appreciate it. [Applause]

Mayor Leffingwell: Councilmember shade.

Shade: I just had one question sort of along the same line. I appreciate you raising all these issues. I don't really know -- I can't find the answer on the history of the different approaches that they take for appraising the commercial properties versus the residential. You bring up in your presentation what commercial properties have sold for. It sounds to me what they're doing at the appraisal district is really taking an income stream approach with commercial properties. Not the same thing that they're doing with residential. So do you know anything about that, why that is? Is that based on state law? Is that based on --

state law says that properties must be appraised at market value and market is the sales price determined between a willing buyer and willing seller. So if you have a sales comparable, if you know that specific property sold for a price, then that is your peg mark. But absent of that, they do show up with their rent rolls and say, hey, this is the kind of money we're making, this is our net income, therefore with the certain capitalization rate it's worth x amount. But they are -- I don't think they have to show audited income and expense report they show up at the appraisal review board with two lawyers and a

couple of accountant for these really big accounts. Then there's always a threat of a lawsuit. And so I think the appraisal district caves in a lot. The appraisal district is only raising their budget i think one percent this year for next year when in fact you may say, hey, let's give them more money so they can fight harder for the money we need to get. But as far as the commercial versus residential, it's trickier for commercial, there is no doubt, but there's 40 billion dollars' worth of commercial property in travis county, and if it's undervalued by 40%, as the texas association of a appraisal districts says is true statewide, then we're missing about 18 billion dollars' worth of commercial property. So it's definitely worth burring into.

Shade: Thank you. [Applause]

Mayor Leffingwell: John bush. You have three minutes.

Evening, council, mayor. I don't really have much prepared. I just wanted to share with you some observations that I've made over the past year of really paying attention to what's going on and a lot that I've learned from bryan as well. I want to talk about equity and the difficulty that it is for the austin taxpayers to actually get up here and make a difference and defend themselves, defend their wallets really. I look around at city hall and we've been calling people, getting people to show up. We had little protest outside, but people work all day. Nobody wants to come out. People want to come home and spend time with their families. Not to mention the state of the economy right now, people are really squeezed right now. We're just going to have to continue working harder and harder in order to make ends meet. Meanwhile, you have individuals, paid lobbyists, people that work for developers and whatnot, that get paid 150, \$250,000 to stay here and knock on each one of your doors in order to see if they can get favors. We don't have that luxury as taxpayers. That's the reason why we elect you to look out us, to look out for the best interest of the people as opposed to the industry here and development that we see in stint. Again, it's very difficult, and I don't know if you don't feel that you're accountable to the needs of the people because we don't show you that you need to be accountable. We try to, believe me. But something has got to give here. I mean, bryan rogers has laid it out how to solve this problem. I know it will take a lot of work, but we don't see very much action coming on it. Again, I know it's tcad who is the one driving this, but you guys have a responsibility as elected representatives to the taxpayers, to the people that put you in office, and we just don't see you out there defending us like you should be. We don't have the time to do this in some instances. We don't have the time to stick up for ourselves. That's why you're in this position. But time and time again we fail to see a shift in the -- in the momentum that we have. And you just have to point out it was 2000, it was 48% to 52% as far as the share of the burden of property taxes. Now it's 68 to 32 or whatnot. That's something -- something's up here, guys. And let me point out 450% property tax increase compared to 100 or 150% does not make sense. Another thing I've been some moring lately philosophically trying to create a synergy of ideologies that everyone can agree with and one is equality under the law, equal opportunity. We do not see the equity taking place within the city. Unfortunately. We have this wonderful image, it's really a facade -- [applause] -- of this progressive body, of a progressive citizenry where everybody is treated equally. Everybody has equal opportunity, but we do not see that happening. Unfortunately I think the systemic problem with the nature of government. But again that's why-- lect you had fine people to fix that problem. It's just not getting fixed. Another unanimous of this equity, say you have -- another

instance of this equity, say you have a commercial property with millions of dollars in the bank, say some out of state speculator, they can afford to pay the lawyers to come and protest if they have a property tax increase. [Buzzer sounds] where the citizens can't pay the 2,500-dollar to pay the lawyer. We need you guys to help us out.

Mayor Leffingwell: Thank you, john. [Applause] bill bunch.

Thank you, mayor, councilmembers. I just put in my two cents in favor of equity and really appraising the commercial property. Most of -- a whole lot of that property, as you well know, is owned by anonymous corporations with investors all over the world. Whereas the residential, real people, people who vote for you, people with families who are having a hard time making ends meet. So I think you need to think about it in those terms as well. On the water utility budget, of course we think you ought to save all of that money on a water treatment plant that we definitely do not need. You could take about half of that money and put it back in to the ratepayers' pockets. And then you take the other half and do all kinds of really exciting, important things that move us towards being the sustainable city that we so often claim ourselves to be. Replace our old leaky pipes, that's important. Water is just going into the ground, disappearing, wasted after we've spent all the money treating it and pumping it around. Expanding our reclaimed water system to -- and every drop of that comes straight off our peak day demands. Spending money with the low income housing stock and partnering that with the energy efficiency so that every lower income unit of housing in this city is also extremely water efficient as well as energy efficient. There are stimulus funds out there to help us do that. Buy more watershed protection land. We could actually save barton springs. We've been talking about it for a few decades. [Applause] but with the bust in the economy, we have a chance to buy some land that would otherwise have been paved over. We can buy some pumping rights in the barton springs watershed. Actually have a stake, have our water utility own some groundwater rights, manage those more effectively, figure out how we can cut that back and maybe even retire some of those pumping rights. So that our springs don't get pumped dry. You just got a memo from wawrd protection telling you we're facing that as a very serious threat. Reduce real risks. The audit and finance subcommittee this week got a really interesting report from the city auditor's office identifying risks that are being unaddressed at the water utility. And quite thankfully none of these are risks to public health or safety or, you know, a plant is going to shut down. We're not going to have any water. None of these kind of risks. We have a safe water system, but there's a bunch of risks that are monetary -- [buzzer sounds] -- business losses, project management is at the top of the list. We're spending way too much money.

Mayor Leffingwell: Thank you, bill.

On cip projects. Too much money on cip projects.

Mayor Leffingwell: Thank you. Is there anyone else kind signed up to speak whose name I have not called?

[Inaudible - no mic]. [One moment, please, for change in captioners]

who's paying for the police cruiser that was wrecked last week? Am I paying for it? Are these people in the gallery paying for it? The city of austin paying for it or the police officer who didn't follow standard procedure following it out of his pocket? As a former member of the military, we didn't follow standard procedure. We broke the rules, broke something that belonged to the government. We paid for it out of our pocket. You might want to think about that. It would save some money in your budget. Thank you. thank you. Did you have a question -- joo. I'm sorry, brian, i didn't ask you when you were down here and I was going to ask bill but I think you're the better person. I know you took this issue to the county but I don't remember how resolved.

When I took it to the county I sat in the commissioner's court with the chief appraiser on one side patrick brown, and i gave some testimony and brown gave testimony and the judge and the commissioners other than eckhardt, who was out of town, decided to -- the chief appraiser said i promise to do a better job, and council members -- i mean, the commissioner members said, you know, we'll help you in any way, and that was kind of the way it ended. It didn't -- it wasn't very satisfying to me but they're not going to do any kind of challenge, they're not going to do any performance audit. They're just going to try to do better. and the issues you're raising, we already received our certified rolls for this year.

Mayor leffingwell: right.

Right. so the course of action you're advocating is a course of action for next year.

There's nothing you can do right now, that's correct, but nobody did anything the previous year or the year before that or for the last ten years, so all I'm saying is you want to get ahead of the curve, now is a good time, yeah. --

cole: okay. And then my last question is have you taken this to the school district?

No, I haven't. I haven't -- partly because I'm under the impression the school district -- because of robin hood we're property rich and they don't care, because that's independent of what I heard about the -- that little texas lane affordable housing apartment thing, that this -- that the school district didn't really care if we gave up their property tax. Am I -- is that kind of right? no, I was curious because their taxes are so much larger than ours and because robin hood is so much more complicated, so i was wondering if they [inaudible] on it at all. .

The issue you raise affects a number of governmental entities.

Yes. so I think just exploring the validity of them or what aspects need to move forward is a really broad-based question.

Let me just say, one thing I learned is that falls partly in travis county and they are out of compliance, which triggers a district-wide appraisal review, so beginning september 1 the comptroller is doing a travis central appraisal district review, and they're going to use a much more strict review process. It's called maps, m-a-p-s. It's what the legislature has in mind every other year starting in january. They're

going to test-drive it on tcad beginning in september, so they've already picked a contractor. So we'll get some information out of that pretty soon. But they don't accept outside information. I can't give them, you know, the south fifth project or all these things that i found. They don't take third-party information, so -- and the crux of your argument, as I remember it, is that you should use the sales price for valuation as opposed to what the appraisal district has.

The appraisal district -- there's three ways to appraise property. There's the income approach, the sales approach and replacement cost, and really replacement cost doesn't play into it so it's really sales or income. The motherlode of any appraisal company in their file cabinets is sales , because that tells the market, that defines the market. you have, then you know much closer what any particular property. If you have -- let's say you have 100 acres out off of -- out near elroy, and you had five of them that you knew what the value were at a hundred. Well, it's pretty easy to say what another one it is. The mauer sales -- more you have the more you can narrow in on the true value of properties. They're value in a number of ways and the more you have the better off you can do your intrt job. When the city buys property for right-of-way expansion, like on parmer, the appraiser will use all this land northeast, all these sales comps. They use the same sales over and over and over again typically, but -- because they apply. are the bread and butter for appraising.

Cole: I'll tell you what. Let's -- of course you know we're in the budget process, and as you pointed out, the financial position of the city is being scrutinized very carefully, and so I'd like to ask you to come by simply because I want to make sure that I have a clear understanding of what you're concerned about, and then I can talk more intelligently to my colleagues about that if we need to recommend some course of action or visit with the other governmental entities. I've seen some letters float around, but I haven't sat down with you and actually talked about you know, what the state law is, what the appraisal district is doing, what aspect of it we need to explore, just how feasible it is. We haven't talked about any of that.

I'd be happy to come in and talk to you about it.

Cole: okay. That would be great.

Okay. Thank you. [Applause] council is now closing public comment on the proposed budget for fiscal year 2009-2010 but will not conclude the meeting on the budget until we vote to adopt the budget at the annual budget meetings here in austin city council chambers. These meetings will begin at on monday, september 14, 2009, tuesday, september 15, 2009, and wednesday, september 16, 2009. I will entertain a motion to close the public comment portion of the budget hearing. Council member shade moves to close the public comment portion of the budget hearing. Is there a second? Second by council member spelman. We have a motion from council member shade to close the public comment portion of the budget hearing and a second from council member shade. All those in favor say aye.

Aye.

Mayor leffingwell: aye. All those opposed say no. The motion passes on a vote of 7-0. Public comment

portion of the budget hearing is closed. So we'll now take up item 84.

Good evening, mayor and council. I'm virginia collier from the planning development and review department, this is the second of two public homeworks on the proposed strategic partnership agreement between the city of austin and river played utility district. The mud was on monday and tuesday and following the second hearing on tuesday the mud board approved the spa with directions for the minor changes of the wording in the parkland sections. Staff recommends amending section 4 on page 11 and page 6 on spa consistent with the language provided to you and the city clerk in the yellow copies of the spa. Both edits are maintaining the city's requirement for city approval prior to any mud or district limited actions. This means that following today's public hearing council will be able to approve the river played spa. As you'll recall the purpose of a strategic partnership agreement is to define the terms and conditions for the city's annexation of the mud and the terms and conditions pursuant to which the mud would convert to a limited district at the time of full-purpose annexation. This spa is designed to provide reasonable and equitable benefits to each party and under this agreement the mud on behalf of its residents agrees to full purpose annexation on 2017, and subject approval by mud residence the mud will convert to a district, initial term of ten years, for the purpose of owning, operating, maintaining parks and recreational facilities within the mud and providing solid waste and single stream recycling services. A service plan that describes services that will be provided by the city in the limited district upon full purpose annexation would be adopted as part of this spa. Copies of both of those are available this evening. Municipal services to be provided by the city include those that are provided in the area from travis county currently, such as public safety and road maintenance as well as other city services that are provided city-wide. Also at the time of full-purpose annexation the city will assume the mud's remaining date and no post-annexation surcharge will be applied. Upon the effective day of the spa territory within the mud will be annex for limited purposes of planning and zoning and in addition the austin water utility will acquire ownership of the mud's water and wastewater infrastructure on the effective date of the spa and the mud would continue operating and maintaining the wastewater services until october 21, 2014, at which time the city would take over those responsibilities. Again, copies of the spa with exhibits including the service plan are available this evening, and this concludes the staff presentation for item no. 84. Council I, there are no citizens signed up to speak on item 84, so I would entertain a motion to consider the ordinance adopting the sba between the city of austin and river place mud. Mayor pro tem martinez moves to close the public hearing and adopt the spa outlined 84 on all three readings. Is there a second? Second by council member spelman. Any discussion? All in favor say aye.

Aye. aye any opposed? Motion passes on a vote of 7-0. So without objection, council, I would like to go to item 87 and 88 and go back to item 86, because there are no people signed up on 87 and 88. So we'll now call up item no. 87.

Mayor, mayor pro tem, council members, city manager, I'm victoria lee. I'm the director of watershed protection. I'm here today to present our proposed fiscal year 2010 drainage fee increase. The duane fee is currently at oh drainage fee is 15 per equivalent residential unit or eru. There has not been any fee increase since '06. 4% of increase. The residential fee will 75 per eru per month and the commercial fee will increase to 50 per month per impervious acre. This morning council approved a drainage utility

ordinance change which provided for a new category called residential vertical construction. Vertical construction is defined as structures with seven or more stories of dwelling units. Residential units in these structures will be assessed one-half of an eru, or \$3.88. Yesterday during our budget presentation there was a question about our ending balance, and I have added the out year ending balance amounts to the table, and i also added a roll to show our cip transfers here. So in this table you can see that with the proposed fee increase combined with using ending balance, we will be able to transfer almost \$30 million in fiscal year' delete 14. If we do not have a fee increase in fiscal year' delete 10, we will need to increase a lot more in the out years so we can achieve the goal of approximately \$30 million cip transfer. So this summarizes our fee increase proposals, and we can go ahead to the public hearing. council member spelman? victoria, you said if we didn't have a small increase this year, then next year in order to hit that \$30 million target of transfer, we'd have to have a lot more. Could you put a dollar sign and some figures on a lot more? How much is a lot?

We'll have to double -- at least double the rate increase, because this year we plan to increase about 4, the rate increase of 60 4%, so we do not 4% the next year to make it up, if we don't, we'll have to at least double the percentage of increase.

Spelman: okay. 4, how much of an increase would we need next year?

Every 60 cents would generate \$2 million of revenue, increased collection, and will be at least \$1.20. so it's going to double anyway.

It would need to be a 7% increase.

Spelman: okay. So it would be 8% this year, 7% next year.

Right. alternatively, zero percent this year and 16% next year.

At a minimum.

Spelman: at a minimum. So really you'll you're doing is knocking off the rough edges of it but in the long run we're going to end up in the same place two years from now. We're not saving ourselves anything next year by adopting some of this this year. Are we?

Would you say that again? you need to get to 30 million bucks at some point. That's what our target is, set by our -- by some policy. I'm not quite sure where. But never mind that right now. We -- you're basically -- you're ramping your way up.

That's correct. and instead of flat lining the drainage fee and then cranking it up in two years, you're increasing it halfway to the goal line this year and the other half of the way the year after that. Could you explain to me, in ensuing years, you had a spreadsheet that listed what your balance was going to be, how many -- how much revenues and how much expenditures you were likely to be teag taking in over

the next -- taking in over the next few years up until 2014, 2015.

Yes.

What assumption are you making about your drainage fees in the years after that. Are we going up 16% the next two years and then stop or will it continue to go up after that?

Yeah, our forecast is 60-cent per year of increase.

Spelman: for how long?

And for fiscal year 15, this is one, two, three, four, five -- six years, of continuous 60 cents per year increase.

This is a first year in a six-year program of flat line increases, 60 cents a year, year after year.

That's right. And because the base is bigger as the year goes by, so the percent will be -- actually be smaller.

Spelman: thank you.

Mayor leffingwell: okay. First, clerk, I'm showing on the seen-up citizen, one citizen waiting to speak but there's no names on the sheet. Just confirm that there's no one signed up to speak. Okay. I'll entertain a motion to close the public hearing. Mayor pro tem moves to close the public hearing. Is there a second? Second by council member morrison. All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Motion passes on a vote of 7-0. I'll entertain a motion to extend the meeting past 10:00. Council member shade moves to extend the meeting past 10:00. Council member spelman seconds. So all in favor say aye.

Aye.

Mayor leffingwell: aye. Passes on a vote of 7-0. 88, which is to conduct a public hearing to receive public comment on the proposed rate and fee changes for the solid waste services department for the 2009-2010 budget. There is no staff presentation. We have one citizen signed up to speak -- correction -- yeah, one citizen signed up to speak. Kenneth coim? Kenneth coim? Did I say that right?

Yes, sir. Yes, I'm kenneth coim, a psycho therapist and president of the inteer imperial valley neighborhood association. Fm 969, that's mlk extended out east, where I crosses 973, there's a municipal solid waste disposal in the gravel pits. You know you go down sometime 40 feet, sometime you go down 80-foot, sometime you go down 300 feet. There is on my camera in my bag back here, I

have, as a result of marc ott asking me to keep searching, I've gone out and marked, and yes, walking past the no trespassing sign, I have footage showing that, yes, there is solid waste being put at the -- at the base of those gravel pits, 969, 973. Interesting question is, checking with ut and a city employee, kevin anderson, there's no monitoring on what goes into there. So if I -- if I have a truckload of horse slop -- i mean, hog slop, I can put it in there. I could put in any kind of nuclear waste or whatever. There's no monitoring. it says on the sign "teq -- or what is it? Tceq. It says "approved 1998 and " it's in the record. The exact dates I'm not good at. I didn't expect to speak here tonight. But I would like some company in somebody that perhaps has volunteered time that's available to step forward and let's go past the now trespassing sign, go right down in the pits and see just exactly what that is that's going in there. Some parts of it looks like blacktop, and that's prohibited. Now, contend salazar, the department - -- ken salazar, the department of interior, says the 1872 mining act needs to be revieed. Why not bring up that 1872 act? Txi has been in the news recently. It's probably hauled out a billion dollars worth of gravel. I just want to insist that we look at the question of is there -- is this gravel pit operations and the mining cleanup that's supposed to take pce the observations of -- thank you, mr. coim. Your time has expired.

Thank you. thank you. Bill bunch is signed up neutral and not wishing to speak, unbelievably, but thank you. [Laughter] mayor pro tem, did you -- I was just going to ask the city manager if someone could coim, but city manager already took care of that. all right. So I'll entertain a motion to close the public hearing on item no. 88. Council member morrison moves to close the public hearing, seconded by council member spelman. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a vote of 7-0. Before we go to what i believe is the last item on the agenda, which is item 86, we need to go back 32, which should be very quick. -- That was pulled from the agenda by council member morrison so I'll turn it over.

Thank you. This is an item where staff has brought back for the second and third time, third reading, home occupation signs, and if you'll remember, that came up during a zoning case we had on airport. Council member shade and i are encouraged going forward with allowing this. Staff brought back the first reading, and one of the things that was missing in that that mayor pro tem martinez had pointed out was in addition to just having a ground sign, we were also interested in having a pole sign where maybe a smaller sign is hanging from a taller pole. Soy worked with legal on this. If you don't mind, greg, I'll just run through this real fast because I think that we're okay on this. To make just a few changes to what had been proposed by staff. First of all, we want to ensure that the sign faces the core transit corridor as well as the primary structure. That's one change that you-all have -- I'm sorry, i should have said you-all have a motion sheet in front of you. The second part of the motion sheet is first of all to change the originally proposed size of the sign. I'm thinking of it in terms of campaign yard signs, because I think we all know how big those are. That's about 3 square feet. So rather than 9 square feet, which would be three of those, I would like to suggest that the ground signs be 6 square feet, which is what this does, and then it also adds the pole sign element where the pole can be 12 inches in diameter with the 3 square feet area sign hanging from it. So that's what I would like to move, and I think -- i believe the

clerk has a copy of this. So my motion then is to amend -- is to approve on second and third readings what is posted with the amendment as I've described on this sheet. council member morrison moves to approve the ordinance on second and third readings with amendments that have been passed the clerk, seconded by the mayor pro tem. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a vote of 7-0. 86, which is to conduct a public hearing to receive comment on the proposed rate and fee changes for austin water utility as a part of the fiscal year 2009-2010 proposed budget. There will be no staff presentation. We have seven citizens signed up to speak and the first speaker is paul robbins. Paul robbins. Kim magor here? Maigor, magor? Not here? Paul, you have three minutes.

One way to save money in the city budget is to turn the air-conditioning down in this building 10 degrees. turn it down? It's already cold.

Excuse me, turn it up. [Laughter] forgive me. Can someone please clarify, because I didn't -- I want to get the exact information correctly. Someone in the city please answer, what is the predicted increase in residential water rates over the next five years? And what is the share of this increase that will be going to water treatment plant no. 4? well, I think we'll be happy to ask someone from staff to get you that information later. mayor --

mayor, also, that is actually one of the questions that I asked formerly of the budget so that answer should be posted on-line in the near future.

Okay. My best information, which may not be accurate, is that there's going to be a 25% increase in the residential water rates over the next five years and that a goodly percentage of that is water treatment plant 4, and my question to you is one that I've asked several times previous, which is, how are we doing this before there's been an election to authorize what are treatment plant 4? I mean, I know plebiscites are such acquaint concept, but it is, after all, in the city's constitution, the city charter, and with that I'll be merciful and bid you good evening. thank you. Asked and answered, mr. robbins. Next speaker is --

[inaudible] are you cam magor?

No, I'm [inaudible] archer but [inaudible] well, we'll get -- if you will get with the clerk to --

[inaudible] you're sam archer?

I'm sam archer. well, we just haven't gotten to you yet.

Okay. [Inaudible] bill bunch?

Thank you. Thank you. debbie russell? Debbie is here, ann deliano. Ann deliano. Just give them to the clerk, bill, and she'll pass them out. Ann deliano is not here so, bill, you have six minutes.

Thank you, mayor. Bill bunch with save our springs a springs alliance. I've given you a packet here I'd like to refer to. The first page is the slides you were presented by meszaros at last week's budget briefing that specifically refers to the utility rate increase. 5% increased combined rate, 3 wastewater rate, 78 monthly bill increase 35, reflects residential customer average use, 8,500 gallons of water per month, 5,000 gals of wastewater. Oh gallons of wastewater. The last line, implementing the 2008 cost of service rate study. First, if you do the math, 9%, just very simple, not 4.5. Doesn't add up. Now then, if you actually turn over to the next page and look at a document that you can extract from the water utilities budget documents that you don't find anywhere on the city's web site that's accessible and refers to this issue, it shows that the water rate increase for single-family 1% increase. The wastewater rate increase will be 3.9. It then shows you the relative increases for commercial, multifamily, large volume are substantially less than the single-family rate increase. Large volume are actually getting a 2% decrease in their wastewater rates, commercial getting a zero percent increase in their wastewater rates. So it just seems like this is fundamentally inaccurate and misleading information. Now, take it the next step. meszaros told you 5% combined rate increase, he told you that we were going to do that same combined rate increase each year for the next five years. That was going to be this even step-up, okay? Well, if the real number for 1% in the first year, what is the real number at the end of five years? What is it for the other rate classes? Okay. This is supposed to be based on the 2008 cost of service rate study. If you flip that page over to the next slide, the bottom slide on that second page tells you about the rate service. transparent process, to improve methods of determining fair and defensible rates. Process followed. We had this public involvement committee. to be issued. This was last week. It wasn't even out yet last week. It was finally put on the web site a few days ago. But you can't find it. It's impossible to find, unless you look at that one exact link on this one site. I dare you to go do the search function, cost of service, click on water, go to the water utility home page. It will never ever take you to the two volume 500 page cost of service study that says study 2008, but it was released at the end of august 2009, last week. And you're making all these complicated, enormous financial decisions. Have any of you read this? Seriously. Has a single one of you read this document? The public -- the public involvement committee, their last meeting was october of 2008. I talked to one of their committee members. They don't have a copy of it. They don't know anything about it. The public involvement committee. The public didn't even know about those meetings. I haven't had a chance to read the report, but I spent a little time reading it, and it's basically written to be as opaque as possible and to give you one answer -- you're supposed to rubber stamp these. You're not given any options. You're not -- you know, here's a, b or c, choose one, and these have different policy implications of better water conservation or more financial security or more financial risk, you know, more aggressive assumptions about growth, et cetera. There's nothing here. You really can't be honestly accepting this as valid information. And I know -- you hear so much frustration coming from me and anger because we keep getting this kind of lack of candor from the water utility. And I don't mean to direct it at you-all. I was just thinking the other day, I don't remember a council the last 25 years with as many smart people who know this city and who care. You-all are a great council, and you can be a really great council.

We're going to remember you said that.

And you have so many great staff, but you cannot let this kind of activity pass this transparency as the kind of quality of government and of information that we're going to let pass. Maybe there's some 1% 7 or 4.5. But I don't -- I don't see how you get there. Please, you really need to have a whole 'nother round of public involvement after these been some opportunity to review this cost of rate study. You paid a lot of money for this thing. Water utility paid outside consultants a lot of money, and you shouldn't be accepting a 2008 report at the end of august of 2009 and making decisions based on it. Thank you.

Thank you, mr. bunch. Colin clark, you have three minutes. Mark, are you running the clock down there is this.

Good evening, mayor pro tem, members of council, colin clark, also of save our springs. Two weeks ago at the very first public hearing on the budget, which was posted at 00, I think it started 00, here we are, the first and only public hearing on a very significant water rate 00, started at about 10:00. I know you made some changes today of the council procedures but I'd ask that that you rethink the whole way we do business here because this is important. Things are lacking, public involvement because it's so lack and it's a shame follow you-all because you're not getting the input and it's a shame for the citizens who are really not able to come down here. Bill mentioned some of the discrepancies and how this proposed rate increase is going to be spread around, and I'd like to propose that instead of raising these rates the same amount in each rate class for your first 2,000 gallons, your 2,000 to 5,000 and on up, that instead you keep your base rate where it is, for water, cooking, cleaning, bathing, but for the fifth tier that the utility is proposing to add, they're proposing that those gallons over 25,000 gallons be \$10 a gallon, which is only \$1 a gallon more than the rate class below under the new rates. That should be \$2,020 per thousand -- \$20 per gallon. When you raise price you send a signal to consumers to use less, so you want consumers not to use more than 25,000 gallons a month, but if they do, they should pay for it, and perhaps some of the biggest wasters of water when they get their bill would respond more promptly than the statesman has appointed out some of them have, because it's not really that expensive for those extra gallons over 25,000. So you can structure the rate class -- the rate increase to make the water wasters pay and that stabilizes some of the revenue that the water utility is concerned with losing. As has been mentioned, this rate increase is significantly to pay for water treatment plant 4 and to subsidize other growth in the city, and in some answers to some commission questions the debt service -- annual debt service is going to go from \$150 million to \$220 million in six years, \$220 million annual debt service. That's like a third the size of the general fund budget. And so how are we going to pay for that? Everybody is going to have to pay more for the same water. We're not disincentivizing wasteful nes. We're just penalizing everybody. It's not robbing peter to pay paul. It's robbing everyone to direct that money to a smaller group of contractors and engineers who are going to benefit from a billion dollar plant, and the water utility finally did admit that -- on kut thahen you add the interest it's 900 million to a billion. Thank you. the last speaker is sam archer. Sam, you have three minutes.

Thank you, mayor. archer of old west austin. I apologize for my paranoid outburst of this cyber system. you're not alone.

What it is, council, I am agas that you're still sitting up here on your dais ac westing to one of the most colossal pill fraj of our fresh ri box in austin, the destruction of the number one water treatment plant right over here a couple blocks away, also known as the green. When I saw a pretty white boy standing I think right over there with about a thousand dollars worth of clothes on just quivering in excitement as getting that much money in flow, it made me very frightened and i kept looking for a latter day robert barnstone or beverly grif eth who would pipe up and stop this folly. No one has come along. I have spoken to everyone i can, three of you-all in person, and have not gained any traction and now the water department is shamelessly asking for a rate increase to pay for a billion dollar water treatment plant that you're having invective hurled at you from the environmental people to replace the capacity that's going to be lost by this world-class facility right over here. Now, I talked with some of the guys who work in that plant and they said that you will rick, the engineer for the water -- ul rick, the engineer of the water department for about 20 years, opted every decision-making process for the better instead of the simply average, five bolts instead of three, hard grass instead of sealed with paint on it, stainless steel instead of breaks, this instead of that to make it more maintainable, more durable, no valuable. He opted for the serpentine water mixer to be a little wider, a little deeper than anybody thought austin would need and lo and behold we had to build no. 2. There is nothing old and worn out about the green water treatment plant, and they have told you a pack of lies to equal what the traffic engineers told us about getting pedestrian access over the river having to destroy the lamar boulevard bridge. So the -- you must remember, the leadership in the water department is currently incredible. They want to destroy a major resource and then ask for 500 million, a billion dollars to replace it. Now, remember five years ago when water treatment processing was the pinch point? We didn't really have a water shortage. We had a processing shortage. Now all of a sudden miraculously that's gone away and we can destroy one-third of our water treatment plants? Well, my time is up. There's more. thank you, sam, but green has been shut down for almost two years. You knew that, didn't you?

It may have been shut down but I don't think they've swung a sledgehammer on it yet. pretty big holes over there.

Well, darrell -- it's officially decommissioned.

It's a terrible waste. It's an atrocity. Just hallucinogenic gas over the dais of the last council. thank you, sam.

Thank you, mayor. I have mona madie signed up against, not wishing to speak. Brian rogers not wishing to speak. Pardon? And those are all the citizens who are seend up to speak on item -- signed up to speak on item no. 86. So I'll entertain a motion to close the public hearing. Mayor pro tem, mike martinez, moves to close the public hearing. Is there a second by council member cole. Any discussion. All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a 7-0 vote. And those are all of the items we have on

our agenda for tonight --

mayor? Clerk. I don't show any action for executive session items 66 and 67. we are -- thank you for reminding me of that. We are postponing executive sessions 86 and 87 till september 24 without objection. So that being done, without objection we are adjourned at 10:30.

End of Council Session Closed Caption Log